

no: 4<sup>o</sup>

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AN

HISTORICALL VINDICATION

OF THE

Church of England

In point of *Francis Drake* *in full*

S C H I S M. *1748*

As it stands separated from the Roman,  
and was reformed I. Elizabeth.

*Sir Roger Toveyden, Bart.*

Deut. xxxij. 7.

Remember the dayes of old, consider the years of many generations.  
Ask thy Father, and he will shew thee; thy elders, and they will  
tell thee.

Jeremiahvi. 16.

Ask for the old paths, where is the good way, and walk therein;  
and ye shall find rest for your souls.



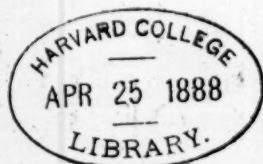
*by Roger Toveyden*  
*Roger Toveyden*

L O N D O N,

Printed by R. DANIEL, for Daniel Pakeman at the  
Rath-bonv near the inner Temple gate, 1657.

B2 326.57\*

HL 4938



*John Harvey Treat.*



*Franciscus Drake A.M. Magd. Coll. Oxon Socius. Oct. 25.  
D 1746.*



To the  
R E A D E R.

**K**now how easily men are drawn to believe, their own observations and expressions may prove as welcome to others, as they are pleasing to themselves. And though few books live longer than the Authors who send them to the presse, and fewer avoid an opinion they might have been as well spared as come abroad; yet neither the hazard their makers run, nor the little gain they reap, can hinder those have a Genius that way, from suffering others to be as well Masters and censurers of their thoughts as themselves.

This being then the venture every

A 3 writer

*To the Reader.*

writer exposes himself unto, the Reader may not a little marvell how I have been brought to hazard my self on the same Seas I have seen so many Shipwrackt in, I shall desire him to adde this to what is already in the first chapter, as my Apology.

*a Veneranda  
Antiquitas,  
cujus præ-  
scriptio cuncta  
bene geri in  
Ecclesia Ca-  
tholica con-  
sueverunt.  
Baron. Annal.  
tom. 8. Anno  
692. n. 5.  
b Non p o ar-  
bitrio disse-  
rentium, ver-  
bisque pu-  
gnauium bo-  
minum, sacra  
dogmata  
Romana Eccle-  
sia defini-  
et; sed quæ ab A-  
postolis tra-  
ita, à majori-  
bus deducta, à  
patribus se-  
rata accepis-  
set, hæc ipsa,  
utpote sacro-  
sancta uni-  
verse Ecclesie  
seu vnde, atq;  
inviolabili  
lege custo-  
dienda, eadem  
Ecclesia Ro-  
mana præ-  
scribet; Ba-  
ron. tom. 7.  
Anno 535.  
n. 90.*

Reading some times in *Baronius*,<sup>a</sup> that all things were well done in the Catholick Church had venerable antiquity for their warrant, and that the Roman Church did not prescribe any thing as<sup>b</sup> an holy tenet, but such onely as delivered by the Apostles, preserved by the Fathers, were by our ancestors transmitted from them to us; I cannot deny to have thought (for certainly Truth is more ancient then Error) this being made good, and that she did commend them to us, in no other degree of necessity then those former ages had done, but she had much more reason on her side then I had formerly conceived her to have: but

*To the Reader.*

but in examining the assertions, it seemed to me not onely otherwise, but that learned Cardinall not to have ever been in this consonant to himself, ' confessing the Catholick Church not alwayes, & in all things, to follow the interpretations of the most holy Fathers.

*e Sanctissimos  
patres in  
interpretatio-  
ne Scriptura-  
rum non  
semper & in  
omnibus  
Catholicæ  
Ecclesiæ sequi-  
tur, tom. 1.  
Anno 34.  
p. 213.*

On the other side, it seemed to me somewhat hard to affirm the Papacy had incroached on the *English*, and neither instance when, where, nor how.

Hereupon, as I perused our ancient Laws, and Histories, I began to observe all changes in matters Ecclesiasticall reported by them; in which I had sometimes speech with that learned Gentleman I mention in the first chapter, whom I ever found a person of great candor, integrity, and a true Englishman. I noted likewise how the Reformation of Religion was begun with us, how cautiously our ancestors proceeded, not to invade the Rights of any, but

*To the Reader.*

to conserve their own. Many years after, I know not by what fate, there was put into my hands (as a piece not capable of answer, in relation as well to the fact as reason it carried) without at all my seeking after it, or hearing of it, a treatise of the Schisme of *England*, carrying the name of one *Philip Scot*, but, as told me, composed by a person of greater eminency, dedicated to both the Universities, and printed *permissu Superiorum*; truly, in my judgment, neither illiteratly nor immodestly writ: but in reading of it, I found sundry particulars, some perhaps onely intimated, others plainly set down, I could no way assent unto; as that *Clement* the vij. did exercise no other auctority in the Church then *Gregory* the great had done, That the Religion brought hither by *Augustine* varied not from that was before the Reformation, That the *English* made the separation from the Church

*To the Reader.*

Church of *Rome*, That in doing so we departed from the Church Catholick.

I was not ignorant it might be found in the writings of some Protestants, as if we departed from *Rome*; which I conceive is to be understood in respect of the Tenets we separate from holding Articles of faith, not of the manner how it was made.

Having gone through the book, I began to look over my former notes, and putting them for my own satisfaction in order, found them swell farther then I expected; *Vrceum institui, exit amphora*: and when they were placed together, I shewed them to some very good friends, to whose earnest perswasions (being such as might dispose of me and mine,) I have in the end been forced to yield, making thee partaker of that I never  
in-

*To the Reader.*

intended should have past farther then their eyes.

Yet in obeying them I shall desire to be rightly understood ; That as I do not in this take upon me the disputing the truth of any controversial tenet , in difference between us and the Church of Rome, so I meddle not with any thing after *Pius quintus* came to the Papacy; who first by private practises, and then open excommunication of her Majesty , declared himself an enemy , & in open hostility with this state, which therefore might have greater reason to prevent his endeavours, by some more sharp laws against such as were here of his inclination, then had been seen formerly : with which I meddle not.

Thus the Reader hath the truth , both how I came to compose , and how to print this. If he find any thing in it like him , he must thank the im-  
por-

*To the Reader.*

portunity of others; if to misdoubt,  
I give him in the margin what hath  
lead me to that I affirm; if to dislike,  
his losse will not be great either in  
time or cost: and perhaps it may in-  
cite him to do better in the same ar-  
gument, and shew me my errours,  
which (proceeding from a mind  
hath not other intent then the dis-  
covery of truth) no man shall be  
gladder to see, and readier to ac-  
knowledge then

From my House in  
*East Peckham* the  
22. May M DC LVII.

*Roger Tmyssden.*

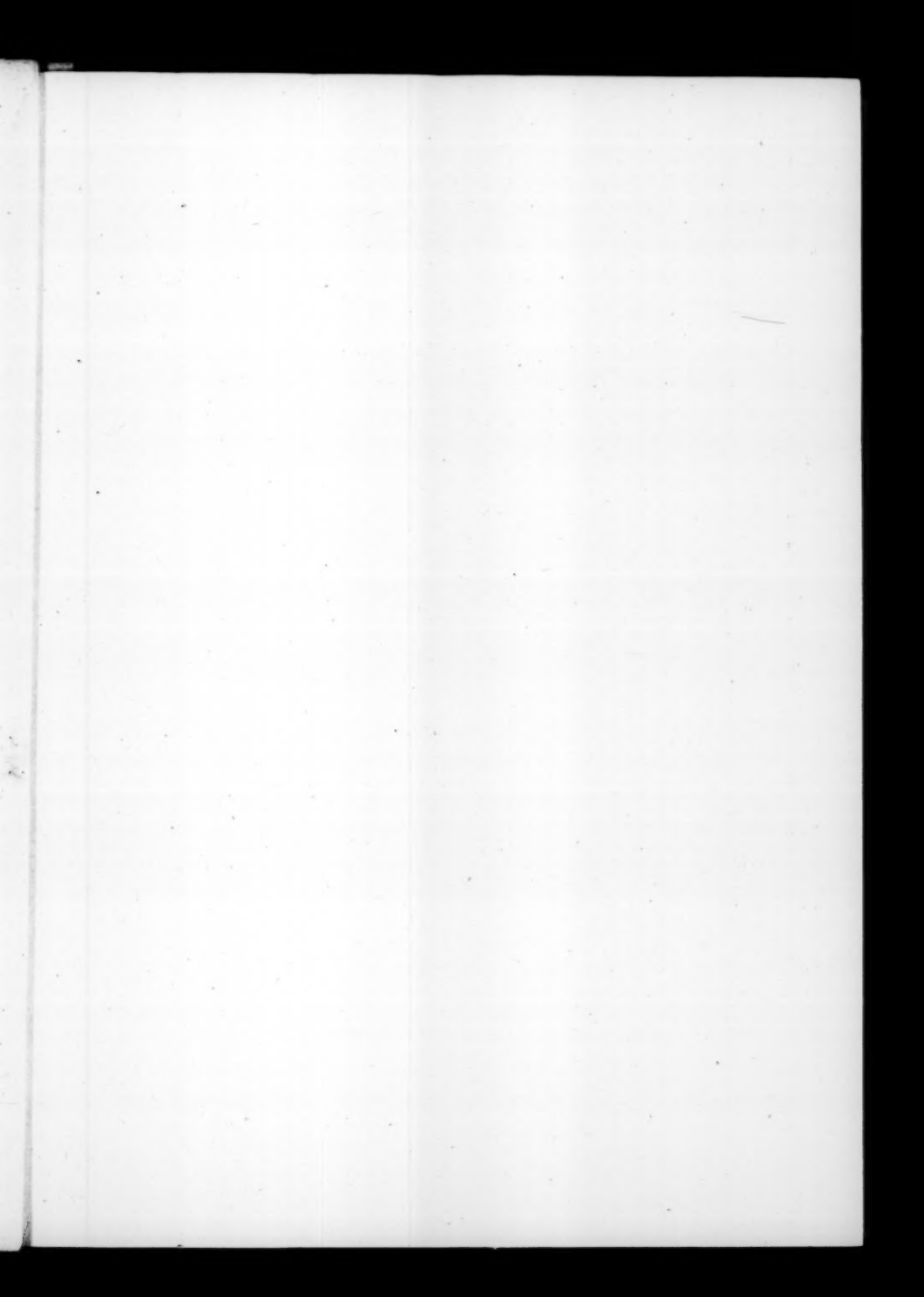


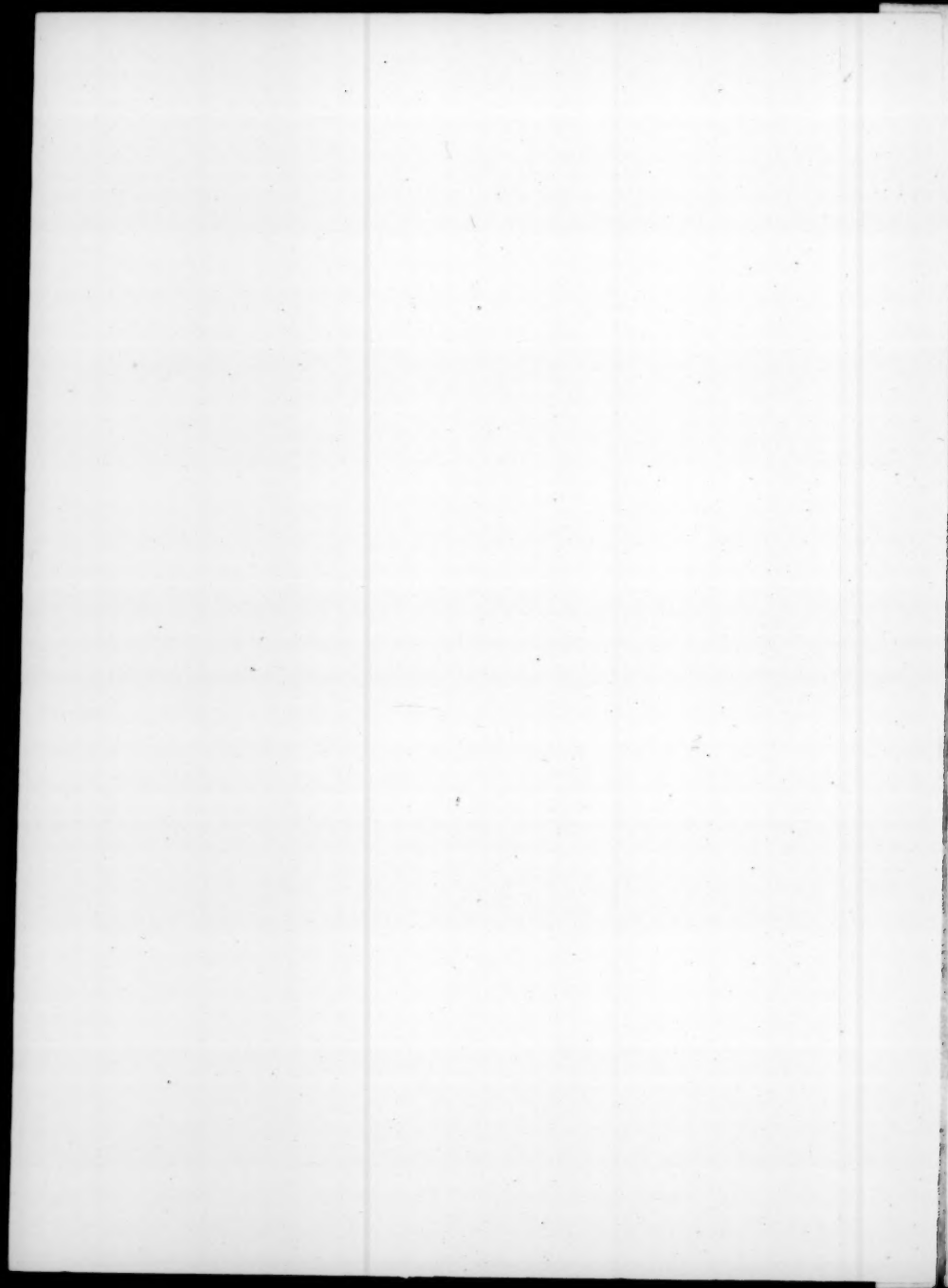


A T A B L E  
Of the  
C H A P T E R S.

- CHAP. I. **A**N Historicall Vindication of the Church  
of England in point of Schism: And how  
it came to be entred upon. fol. 1
- Chap. II. Of the Britans. fol. 7
- Chap. III. Of the increase of the Papall power in England  
under the Saxons and Normans, and what op-  
positions it met with. fol. 9
- Chap. IV. Of the Payments to the Papacy from En-  
gland. fol. 74
- Chap. V. How far the Regall power did extend it self in  
matters Ecclesiasticall. fol. 93
- Chap. VI. How the Kings of England proceeded in their  
separation from Rome. fol. 118
- Chap. VII. How the reformation was made under Queen  
Elizabeth. fol. 126
- Chap. VIII. How Queen Elizabeth settled in this King-  
dom the proceeding against Hereticks. fol. 135
- Chap. IX. Of the farther proceeding of Queen Elizabeth  
in the Reformation. fol. 174









AN  
Historical Vindication  
OF THE  
Church of England in point of  
SCHISM.

CHAP. I.

1. **I**T is now <sup>almost</sup> twenty yeares since de-  
fending the Church of *England* as it was  
settled 1 *Eliz.* for the most perfect and con-  
formable to Antiquity of any in *Europe*, a  
Gentleman, whose conversation for his Learning, I very  
much affected, told me, He was never satisfied of our a-  
greeing with the Primitive Church in two particulars;  
the one in denying all manner of Superiority to the Bi-  
shop of *Rome*, to live in whose Communion the East and  
Western Christian did ever highly esteem. The other,  
in condemning Monastique living, so far, as not onely to  
reform them, if any thing were amiss, but take down the  
very houses themselves. To the first of these I said, We  
did not deny such a Primacy in the Pope as the Antients  
did acknowledge, but that he by that might exercise  
those acts he of some years before *Hen.* the 8<sup>th</sup> had done,  
and had got by encroaching on the *English* Church and  
State meerly by their tolerance, which when the King-

B dom

dom took to redress and restrain him in, he would needs interpret a departing from the Church; yet if any made the departure, it must be the Pope, the Kingdom standing only on those Rights it had ever used for its own preservation, which putting in practice, it was interdicted the King, excommunicated by him, &c. To which he replied in effect that of *Henry* the eighth in his book against *Luther*, That it was very incredible the Pope could do those acts he had sometimes exercised hereby encroachment; for how could he gain that power and none take notice of it? That this argument could have no force if not made good by History, and those of our own Nation, how he had increased his Authority here. Which, truly, I did not well see how to deny, farther than that we might by one particular conclude of another; As if the Church or State had a right of denying any Clark going without License beyond Seas, it must follow, it might bar them from going, or Appealing to *Rome*: If none might be acknowledged for Pope without the Kings approbation, it could not be denied but the necessity of being in union with the true Pope (at least in time of Schism) did wholly depend on the King. And so of some other.

2. As for the other point of Monasteries, I told him, I would not take upon me to defend all that had been done in demolishing of them; I knew they had nourished men of Piety and good Learning, to whom the present Age was not a little beholding; for, what do we know of any thing past but by their labours? That divers well affected to the Reformation, and yet persons of integrity, are of opinion their standing might have continued to the advancement of Literature, the increase of Piety, and Relief of the Poor. That the King when he took them down was the greatest loser by it himself. Whose opinions I would not contradict, yet it could not be denied, they were so far streyed from their first institution,

## Chap.I. of the Church of England.

3

situation, as they retained little other than the name of what they first were.

3. Upon this I began to cast with myself how I could Historically make good that I had thus asserted, which in general I held most true, yet had not at hand punctually every circumstance, Law, and History that did conduce unto it; in reading therefore I began to note apart what might serve for proof any way concerning it: But that Gentleman with whom I had this speech being not long after taken away, I made no great progresse in it, till some years after, I was constrained to abide in London (sequestred, not onely from publique, but even the private businesse of my Estate) I had often no other way of spending my time but the company a book did afford; inso-much as I again began to turn over our ancient Laws and Histories, both printed and written, whereof I had the perusal of divers of good worth, whence I collected many notes, and began farther to observe the question between us and the Church of Rome in that point, not to be whether our Ancestors did acknowledge the Pope successor of St. Peter, but what that acknowledgment did extend to: Not whether he were Vicar of Christ, had a power from him to teach the Word of God, administer the Sacraments, direct people in the spiritual wayes of heaven (for so had every Bishop, amongst which he was ever held by them the first, *Pater maximus in ecclesia*, as one to whom Emperours and Christians had not only allowed a primacy, but had left behind them why they did it, *Sedis Apostolica primatum sancti Petri meritorium, qui princeps est Episcopalis corona Romanae dignitas civitatis sacrae etiam Synodi firmavit auctoritas*, saies<sup>a</sup> *Valentinian* 445. On<sup>a</sup> *Valentinian* which grounds, if he will accept it, I know no reason to deny his being prime) but whether they conceived his commission from Christ did extend so far as to give him an absolute authority over the Church and Clergy in England, to redress, reform, correct, amend all things in

it, not by advice, but as having power over it, with or against their own liking, and farther to remove, translate, silence, suspend all Bishops, and others of the Spirituality. In short, to exercise all Ecclesiastique authority within this Church above any whatsoever, so as all in Holy Orders (one of the three Estates of the Kingdom) solely and supremely depended on him, and hee on none but *Christ*; and whether our Forefathers did ever admit him with this liberty of disposing in the *English* Church.

4. To wade through which question there was an eye to be cast on all the times since *Christ* was heard of in *England*, and therefore to be considered how Christianity stood upon the conversion of the *Britans*, the *Saxons*, and since the irruption of the *Normans*, under the first of these we have but little, under the second somewhat, yet not much, under the third the Papacy swell'd to that height, some parts have been constrained to cast it off, and *England* without his assent in that point so to reform it self, as to declare<sup>b</sup> *no manner of speaking, doing, communication, or holding against the Bishop of Rome, or his pretended power or authority, made or given by humane Laws, shall be deemed to be Heresy.* By which it seems those Episcopal Functions he did exercise common with other Bishops (as Baptizing, conferring Holy Orders, &c.) it did not deny to be good and valid of his administration.

<sup>b</sup> Stat. 25.  
Hen. 8. cap.  
14.

5. But what those particulars were humane Laws had conferred upon the Papacy, and by what constitutions or Canons those preeminences were given him, was the thing in question, and not so easie to be found, because indeed gained by little and little, I cannot but hold Truth more ancient than Errour, every thing to be firmest upon its own bottom, and all novelties in the Church to be best confuted by shewing how far they cause it to deviate from the first original, I no way doubt but the Religion exercised by the *Britans* before *Augustine* came, to have been

# Chap.I. of the Church of England.

5

been very pure and holy: nor that planted after from S. Gregory, though perhaps with more ceremonies and commands, *juris positivi* which this Church embraced rejected or varied from, as occasion served to be other, but in the foundation most sound, most orthodox; that holy man never intending such a superiority over this Church as after was claimed. The Bishops of England in their condemnation of *Wicliffe's* opinions, do not at all touch upon those 'concerned the Popes supremacy, and the<sup>d</sup> Councell of *Constance* that did censure his affirming. *Non est de necessitate salutis credere Romanam Ecclesiam esse supremam inter alias Ecclesias*, doth it with great limitations and as but an error: *Error est si per Romanam Ecclesiam intelligat universalem Ecclesiam, aut concilium generale, aut pro quanto negaret primatum summi Pontificis super alias Ecclesias particulares*: I conceive therefore the Basis of the Popes or Church of *Romes* authority in England, to be no other then what being gained by custome, was admitted with such regulations as the kingdom thought might stand with it's own conveniency, and therefore subject to those stipulations, contracts with the Papacy and pragmatiques it at any time hath made or thought good to set up, in opposition of extravagancies arising thence, in the reformation therefore of the Church of England two things seem to be especially searcht into, and a third arising from them fit to be examined.

1. Whether the Kingdome of England did ever conceive any necessity *jure divino* of being under the Pope united to the Church and sea of *Rome*, which drawes on the consideration how his authority hath been exercised in England under the Britons, Saxons and Normans, what treasure was caryed annually hence to *Rome*, how it had been gained, and how stopt.

2. Whether the Prince with th'advise of his Cleargy was not ever understood to be endued with authority sufficient, to cause the Church within his Dominions be by

B 3

them:

*Apud Knighton. col. 2648. & in fasciculo qizianorum Mss. fol. 64. a col. 1. in biblio theca Archiepiscopi Armachani. d. concil. constant. sess. 8. Art. 41.*

*Vide concordata inter Hen. 2. & Alexandrum 3. 1172. Edwardum 3. & Gregor. 11. 1373. Henricum 5. & Martinum 5. 1418.*



them reformed, without using any act of power not legally invested in him, which leads me to consider what the Royal authority *in sacris* is. 1. In making lawes that God may be truly honoured. 2 things decently performed in the Church. 3 Profainesse punished, questions of doubt by their Cleargy to be silenced.

3. The third how our Kings did proceed, especially Queen *Elizabeth*, (under whose reformation we then lived) in this act of separation from the sea of *Rome*, which carries me to shew how the Church of *England* was reformed by *Henry* the 8. *Edward* the 6. and Queen *Elizabeth*. Wherein I look upon the proceedings abroad and at home against Hereticks, the obligation to generall Councils, and some other particulars incident to those times.

I do not in this at all take upon me the disputation, much less the Theologicall determination of any controverted *Tenes* (but leave that as the proper subject to Divines) this being onely an historicall narration how some things came amongst us, how opposed, how removed by our ancestors, who well understanding this Church not obliged by any forraign constitutions, but as allowed by it self, & either finding the inconvenience in having them urged from abroad farther then their first reception heare did warrant. Or that some of the Cleargy enforced opinions as articles of faith, were no way to be admitted into that rank, did by the same authority they were first brought in (leaving the body or essence (as I may say) of Christian religion untouched,) make such a declaration in those particulars, as conserved the Royall dignity in it's ancient splendour, without at all invading the true legall rights of the state Ecclesiasticall, yet might keep the kingdome in peace, the people without distruction, and the Church in Vnity.



CHAP. II.

Of the Britans.

1. **I** Shall not hear inquire who first planted Christian Religion amongst the Britans, whether <sup>a</sup> Joseph of Arimathea, <sup>b</sup> Simon Zelotes, <sup>c</sup> S. Peter or Elutherius, neither of which wants an author, yet I must confess it hath ever seemed to me by their alleading the <sup>d</sup> Asian formes in celebrating Easter, their differing from the rites of Rome <sup>e</sup> in severall particulars, of which those of most note were, that of Easter, and baptizing after another manner, then the Romans used, their often journeying to Palestina, that they received the first principles of Religion from Asia. And if afterward Celestinus the Pope did send (according to <sup>f</sup> Prosper) Germanus vice suo to reclaim them from Pelagianisme, certainly th<sup>in</sup> inhabitants did not look on it, as an action of one had authority, though he might have a fatherly care of them as of the same profession with him, as a <sup>g</sup> Synod in France likewise had, to whom in their distress they <sup>did</sup> address themselves, to which Beda attributes the help they received by Germanus and Lupus.

2. After this as the Britans are not read to have yielded any subjection to the Papacy, so neither is Rome noted to have taken notice of them, <sup>h</sup> for Gregory the great about 590. being told certain children were de Britannia insula did not know whether the Countrey were Christian or Pagan, and when Augustine came hither <sup>i</sup> and demanded their obedience to the Church of Rome, the Abbot of Bancor returned him answer: That they were obedient to the Church of God, to the Pope of Rome, and to every godly Christian, to love everyone in his degree in charity, to help them in word and deed to be the children of God, and other

<sup>a</sup> Baron. to. 1.

<sup>b</sup> A. 35. n. 5.

<sup>c</sup> Niceph. Ca-

<sup>d</sup> list. lib. 2. cap.

<sup>e</sup> 40.

<sup>f</sup> Metaphra-

<sup>g</sup> ses Junii de

<sup>h</sup> eo vide Baton,

<sup>i</sup> 10. 1. A. 60. n.

<sup>j</sup> 4. Bed. l. 1. c.

<sup>k</sup> 4.

<sup>l</sup> Beda lib. 3.

<sup>m</sup> cap. 25. confer.

<sup>n</sup> Euseb. hist. lib.

<sup>o</sup> 5. cap. 28.

<sup>p</sup> c. In multis no-

<sup>q</sup> stra consuetudi-

<sup>r</sup> ni. - contraria

<sup>s</sup> gerius apud

<sup>t</sup> Bed. lib. 2.

<sup>u</sup> cap. 2. August.

<sup>v</sup> Britanibus:

<sup>w</sup> f Prosper. in

<sup>x</sup> Chronico Ann.

<sup>y</sup> 432.

<sup>z</sup> Beda lib. 1.

<sup>aa</sup> cap. 17.

<sup>ab</sup> Vide cap. 2.

<sup>ac</sup> n. 2.

<sup>ad</sup> Ioh. Diac.

<sup>ae</sup> l. 1. cap. 21. vi-

<sup>af</sup> ta Gregor.

<sup>ag</sup> Beda lib. 2,

<sup>ah</sup> cap. 1.

<sup>ai</sup> h Concil.

<sup>aj</sup> Spelm. p. 108.

ther obedience then this they did not know due to him, whom he named to be Pope nor to be father of fathers.

3. The Abbots name that gave this reply to *Augustine* seems to have been *Dinooth* and is in effect no other then what *Geffry Monmouth* hath remembred of him, that being *miro modo liberalibus artibus eruditus Augustino petenti ab episcopis Britonum subjectionem diversis monstravit argumentationibus ipsos ei nullam debere subjectionem*, to which I may adde by the testimony of *Bede* at their not only denying his propositions, *sed neque illum pro Archiepiscopo habiturum respondebant*. And it appears by *Gyraldus Cambrensis*, this distance between the two Churches continued long even till *Henry* the first, induced their submission by force, before which *Episcopi Walliæ à Menevensi Antistite sunt consecrati, & ipse similiter ab aliis tanquam suffraganeis est consecratus, nulla penitus alii Ecclesiæ facta professione vel subjectione*: the generality of which words must be construed to have reference as well to *Rome* as *Canterbury*; for, a little after, he shewes that though *Augustine* called them to counsell, as a legat of the Apostolique sea, yet returned, they did proclaim they would not acknowledge him an Archbishop, but did contemn both himself and what he had established.

*m* Batonius  
Paraneſis ad  
Rempub. Ve-  
netam p. 52.  
atque his tan-  
dem finisseſſo,  
ſed doleo vehe-  
mentèr quod  
abſque valeat.  
Iohannes  
enim Apoſto-  
lus id vetat &  
cum eo omnis  
ſimul Eccleſia  
quod indignos  
ſalutatione ju-  
ſtè judicet qui  
non communi-  
cantes Roma-  
næ Eccleſiæ  
vniſis penitus  
ſunt ſalutis ex-  
pertes (2. Io-  
han.)

4. Neither were the *Scots* in this difference any whit behind the *Britans*, as we may perceive by the letter of *Lau-rentius Iustus*, and *Mellitus*, to the Bishops and Abbots through *Scotland*; in which they remember the strange perversenesse of one *Dagamus* a *Scottish* Bishop, who upon occasion coming to them did not only abstain eating with them, but would not take his meat in the same house they abode, yet they salute them with the honourable titles of *their dearest lords and brethren*. A certain signe of a wide distance between the opinions of *Rome* then, and now, when men are taught not so much as *m* bid them farewell do not submit unto it, sure our first Bishops

know

# Chap. III. of the Church of England.

know no such rule, who placed in their Calendar for Saints and holy men, as well *Hilda*, *Aydon*, and *Colman*, the opposers of *Rome*, as *Wilfred*, *Agilbertus*, and others who stood for it.

## C H A P. I I I.

### Of the increase of the Papall power in England under the Saxons and Normans, and what oppositions it met with.

1. **A**fter the planting of Christian religion amongst the *Saxons*, th' Archbishop of *Canterbury* became a person so eminent, all *England* was reputed his<sup>a</sup> Dioceſe, in the collidge of Bishops<sup>b</sup> *London* his Dean, whose office it was to<sup>c</sup> summon Councils, *Wincheſter* his Chancellour,<sup>d</sup> *Salisbury* or (as some) *Wincheſter* his Precetor, or that begun the service by ſinging, <sup>e</sup> *Worceſter* or rather *Rocheſter* his Chaplain, and the other the carrier of his Croſſe: <sup>f</sup> expected no leſſe obedience from *York*, then himſelf yielded to *Rome*<sup>g</sup>, *voluntate & beneficio*, it being th' opinion of the Church of *England*, it was but equall<sup>h</sup> *ut ab eo loco mutuenter vivendi disciplinam, à cujus ſomite rapuerunt credendi flammam*. The dependance therefore of the Clergy in *England* being thus wholly upon th' Archbishop, it will not be amiſſe to take a little view both of what eſteem he was in the Church, and how it came to be taken off, and by degrees transferr'd to a forreign power.

2. Upon the conversion of the *Saxons* here by the preaching of *Auguſtine* and his companions, and a quiet peace ſettled under *Theodore*,<sup>i</sup> to whom all the *Engliſh* inter ſcript. x. Angliæ, &c. col. 1736, 17. h Malmſ. fol. 121, a, 3. i Beda ſib. 4. cap. 2.

<sup>a</sup> Eadmer. p. 12, 29. p.

137. 1. Ger-vas. Dorob-ern. col.

1661, 14.

<sup>b</sup> Lyndwood de panis. cap.

Tanquam.

<sup>c</sup> Gervas. Dorob-ern. col.

1566, 10.

<sup>d</sup> Sic Lynd.

ubi ſupra, at Ger. Dorob-ern. col.

1382, 61.

col. 1429, 23

<sup>e</sup> Sic Lyndwood, at Ger.

Dorob-ern.

col. 1382, 61.

col. 1429, 23.

<sup>f</sup> Roſ. at 1565,

1. Wigor.

<sup>g</sup> Malmſ. fol.

121. a & Di-

ceto. col.

437, 64.

<sup>h</sup> Rodolph.

Arch. Epiſt.

k Lib. MS. in aula Trinitatis Cantabrig. submitted, & Parochiall Churches by his encouragement began to be erected, and the Bishop of Rome greatly revered in this nation, as being the successour of Saint Peter the first bishop of the world, Patriark of the West, that resided in a town<sup>1</sup> held to nourish the best Clerks in Christendome, and the seat of the Empire: insomuch, as the devout Britan (who seemes (as I said) to have received his first conversion from Asia)<sup>m</sup> did go to Iudea as a

l Hall 20.

Hen. 3. f. 179.

m Divisus ab orbe nostro Britannus, si in religione processerit, parat locum fama sibi tantū scripturam relatione cognitum. E. pist. Paulæ & Eustochii de commigra. Bethlehems inter opera Hieronymi Script. circa Ann. 386. n lib. 4. c. 23. Beda. o Troubles at Frankford pag. xxxvi. Edit. 1575. p ibid pag. 11. place of greatest sanctity, so<sup>n</sup> amongst the Saxons Romam *adire magna virtutis astimabatur*. But as this was of their part, no other then as to a great Doctour or Prelate, by whose solicitude they understood the way to heaven, and to a place in which religion and piety did most flourish; so th<sup>r</sup> instructions thence were not as coming from one had dominion over their faith, the one side not at all giving, nor the other assuming other then that respect is fit to be rendred from a puisne or lesse skilfull to more ancient and learned Teachers. As of late times when certain divines at Frankford 1554. differed about the Common-prayer used in England, Knox and Whittingham appealed to Calvin for his opinion; and receiving his 200. Epistle, *o it so wrought in the hearts of many, that they were not so stout to maintain all the parts of the Book, as they were then against it*. And Doctor Cox and some other, who stood for the use of the said Book, wrote unto him, *p excusing themselves that they put order in their Church without his counsell asked*. Which honour they shew'd him, not as esteeming him<sup>q</sup> to have any auctority of Office over them; but in respect of his learning and merits.

q ibid. pag. cxlvii.

3. As these therefore carried much honour, and yielded great obedience to Calvin, and the Church of Geneva by them, <sup>2</sup> then held the purest reformed Church in Christendom: so it cannot be denyed but our Ancestors the Saxons attributed no lesse to the Pope and Church of Rome, who yet never invaded the rights of this,

r ibid. p. xlix.

# Chap. III. of the Church of England. II

this, as contrary to the<sup>c</sup> council of *Ephesus*, and the Ca<sup>s</sup> Concil. general. edit. Romæ 1608. 10. 1. pag. 498. sions of the Church of *England*; but left the Govern-<sup>d</sup> Beda l. 4. ment of it to the *English* Prelats, yet giving his best ad- vice and assistance for increasing devotion, and main-<sup>e</sup> cap. 5. tenance of the Laws Ecclesiasticall amongst them, in which each side placed the superiority. From whence it proceeded that however the Pope was sought to from hence, he rarely sent hither any Legat. <sup>f</sup> In the Coun- cell of *Calcuth* held about 180. years after *Augustine*,<sup>g</sup> Spelm. Ann. 1787. p. 293. it is observed, *a tempore Sancti Augustini Pontificis sacerdos Romanus nullus in Britanniam missus est, nisi nos*. And <sup>h</sup> *Eadmerus*, that it was *inauditum in Britania, quemlibet hominum super se vices Apostolicas gerere, nisi solum Archiepiscopum Cantuariæ*.

4. But after the Pope instead of being <sup>i</sup> subject, be- gan to be esteemed above th' Ecclesiastick Canons, <sup>j</sup> Caus. 2. q. 1. and to pretend a power of altering, and dispensing with<sup>k</sup> cap. 7. l. 5. q. 2. them, and what past by his advise and counsell onely, was said to be by his authority, he did question divers particulars had been formerly undoubtedly practis'd in this Kingdom, he seeing them, and not shewing any dislike at it; as <sup>l</sup> *The receiving Investitures of Churches from Princes*, <sup>m</sup> *The calling Synods*, *The determining causes Ecclesiasticall without Appeals to Rome*, <sup>n</sup> *The transferring a wide literas Bishops*, &c. but the removing these from *England* un-<sup>o</sup> Paschal. 2. to a forraign judicature, being as well in diminution of<sup>p</sup> Hen. 1. apud Eadmerum, the rights of the Crown, as of this Church, past not with-<sup>q</sup> pag. 113. pag. 115. out opposition.

5. For *Anselm* an *Italian*, the first great promoter of the Papal authority with us, pretending he ought not be barr'd<sup>r</sup> of visiting the Vicar of *St. Peter causa regiminis Ec- clesie*, was told as well by the Bishops as lay Lords, <sup>s</sup> That it was a thing unheard, and altogether against the use of<sup>t</sup> Eadmer. pag. 38. 39. the realme, for any of the great men, especially himself to presume any such thing without the Kings licence: who affirmed, <sup>u</sup> *nequaquam fidem quam sibi debebat simul*<sup>v</sup> Eadmer. pag. 26. 1.

& *Apostolica sedis obedientiam contra suam voluntatem posse servare.* And the Archbishop persisting in his journey thither, had not onely his Bishoprick seized into the Kings hand, but the Pope being shew'd how his carriage was resented here, did not afford him either *c Consilium* or *Auxilium*, but suffered him to live an exile all that Princes time *f* without any considerable support, or adjudging the cause in his favour. Which makes it the more strange that (having found by experience what he had heard before, that it was the King not the Pope could help or hurt him) this visit being so little to his advantage, at his first presenting himself to *Henry* the first, he should oppose *s* that Prince in doing him homage, and being invested by him, a right continued unto that time from his Auncestors, and by which himself had received *b* the Archbishoprick from his brother, and this on a suggestion that it was prohibited in a councill held at *Rome*: in which he went so far as to tell the King, *i quod nec pro redemptione capitis mei consentiam ei de iis quæ præsens audiui in Romano Concilio prohiberi, nisi ab eadem sede interdictorum absolutionis prodeat, à qua constitutionis ipsorum vinculum prodit.*

6. This is the first, if not the onely time that to what was acted at *Rome* an obedience was required here, as not to be dispensed with but from thence: for it is undoubted, this Kingdome never held it self tyed by any thing past there, till received here; ask *Eadmerus* rightly observes, things done there not ratified here to be of no value. And when *1 VVinchelsea* 1296. would have introduced the contrary, it cost him dear, the Clergy forced to reject the command, *m* and the Court to quit her pretences.

7. But the dispute, however the right stood, grew so high, the King told *Anselme* *n* the Pope had not to meddle with his rights, and wrote that free letter we find in *Torvalensis*, col. 999, 30. which I have likewise seen

in

*e* *ibid.* pag. 52.  
17.

*f* -- *Nil iudicii vel subventionis per Romanum præstulem nacti.*  
*Eadmer.*

pag. 53, 28.

*g* *Eadmer.*  
pag. 56, 7.

*b* *Eadmer.*  
p. 18, 4. p. 20,  
35.

*i* *Ibid.* pag. 70.  
2.

*k* *Eadmer.*  
pag. 92, 40.  
*vide* *Concil. Spelm.* pag. 166, 9.  
*l* *Hen.*  
*Knighton*  
1296. col. 2491. *vide*  
*Mat. West.*  
*o* *Wm.*  
*Thorne.*  
*m* *de immunitate Eccles.*  
*cap. 3. in*  
*Sexto. Et Tit.*  
*eodem cap. 1.*  
*in clement.*  
*n* *Eadmer.*  
p. 70, 5.



# Chap. III. of the Church of England. 13

in an old hand recorded amongst divers other memorials of the Archbishops of *Canterbury*: though I must needs say it seems to me by *Paschalis* his answer; repeating a good part of it, not sent by those he names, but former messengers. In this controversy the Popes returns were so ambiguous, that he writ so differing from their relations were sent, it was thought fit *Anselme* should himself go to *Rome*: with whom *K. Henry* sent another, who spake plainly, his master *nec pro amissione regni sui passurum se perdere investituras Ecclesiarum*; and (though *Rome* were willing to comply in other particulars) told *Anselme* denying that, he could not assure him of a welcome in *England*, who thereupon retired to *Lyons*: where finding slender comfort from *Rome*, he sought the King by letters, and after by the means of *Henry's* sister made his peace; at which yet he was not permitted (such was his spirit) to enter *England*, denying to communicate with them had received Bishopricks from the King, but by the Popes dispensation. The conclusion was, *Paschalis* taught by experience, neither the Court of *Rome* nor the Archbishop gained ought by this contest, however he would not at first abate *prædecessoris sui sententia rigorem*, yet now admitted great limitations to what *Urban* had established. So as the King assenting none for the future should be invested *per laicam manum* (which was no more, but what he formerly did himself, he would now cause to be performed by a Bishop) the other agreed no prelates to be barr'd of promotion, *etiamsi hominia Regi fecerint*, & hoc donec per omnipotentis Domini gratiam ad hoc omittendum cor regium molliatur, &c. which yet the King soon after, on the Popes permission of them to the Dutch, did threaten *sine dubio se resumpturum suas investituras, quia ille suas tener in pace*; but for ought I find, it went no farther then their swearing fealty to the King, which seems to have been long continued.

8. The Papacy finding by this contest the difficulty of carrying any thing here by an high hand, thought of more moderate wayes for bringing the Clergy of this nation wholly to depend on *Rome*; but that could not be without diminishing the power the Archbishop held over them, and therefore must be wonne by degrees: to advance which nothing could more conduce, then to have a person of wisdom reside here, who might direct this Church according to the Papall interest. But this was thought fit to be given out before practis'd, and likely to be doubly opposed, for th' Archbishop well un-

<sup>b</sup> Mat. Paris. understood the admitting a Legat for that end to be <sup>b</sup> in *sua dignitatis prajudicium*. And the King suffered none to be taken for Pope, but whom he approved, nor any to receive so much as a Letter from *Rome*, without acquainting him with it, and held it an undoubted right of the Crown, <sup>c</sup> *ut neminem aliquando legati officio in Anglia fungi permetteret, si non ipse, aliqua præcipua querela exigente, & qua ab Archiepiscopo Cantuariorum ceterisque Episcopis regni terminari non posset; hoc fieri à Papa postulare, &c.*

<sup>c</sup> Eadmer. pag. 125, 53. p. 6, 25. p. 113, 1.

9. Things standing thus in the year 1100. th' Archbishop of *Vienna* coming into *England*, <sup>d</sup> reported himself to have the Legatine power of all *Britain* committed unto him; which was with so much admiration of the Nation (as a thing had not been heard of before) that (if he had any) at least he thought not fit to make use of his Commission, but departed *a nemine pro Legato susceptus, nec in aliquo Legati officio functus*.

<sup>e</sup> Eadmer. p. 113. p. 116.

10. Fourteen years after <sup>e</sup> *Paschalis* the 2. by Letters of the 30. of *March* and 1. of *April*, expostulates with the King about severall particulars; of which one is, his admitting neither messenger nor Letter to be received, but by his leave: but see the words; *Sedis Apostolica nuncii vel litera præter jussum regia majestatis nullam in potestate tuâ susceptionem aut aditum promerentur, nullus inde*



## Chap. III. of the Church of England. 15

*inde clamor, nullum inde iudicium ad sedem Apostolicam destinantur*, &c. and the year following address *f* *Anselme* (nephew to the late Archbishop, and after Abbot of *St. Edmundsbury*) hither, shewing by Letters he had committed unto his administration *vices Apostolicas in Anglia*. This made known here (though the bearer were not permitted to enter the Kingdom) the Clergy and Nobility gathered in council at *London* concluded the Archbishop should go to the King in *Normandy*, make known unto him the antient custome of the Realme; and by his advice to *Rome*, (as being the person was most interested in it) *ut hac nova annihilaret*; from whence he obtained the Letter, or rather declaration to the King and Clergy the same author hath recorded. So by this care the matter was again stopt. f Eadmer. pag. 118, 15.  
g pag. 120.

11. The King 1119. *b* sent his Bishops to a Councell held by *Calixtus* the 2. at *Reims*, at their departing gave them these instructions: Not to complain of each other, because himself would right each of them at home; That he payed that rent his predecessors had formerly done; and enjoyed likewise those priviledges had been formerly permitted them; That they should salute the Pope from him, hear his precepts, but bring no superfluities into his Kingdome: but see the words; *Rex Anglorum praelatis regni sui ad Synodum ire permisit; sed omnino ne alicujusmodi querimoniam alterutrum facerent, prohibuit. Dixit, omni plenariam rectitudinem conquerens faciam in terra mea: redditus ab anterioribus constitutos Romana Ecclesia singulis annis errogo, & privilegia nihilominus ab antiquis temporibus pari modo mihi concessa teneo. Ite, dominum Papam de parte mea salutate, & Apostolica tantum precepta humiliter audite, sed superfluas adinventiones regno meo inferre nolite, &c.* Certainly this prince did hold, the Pope with the advice of a Councell might labour to introduce superfluous inventions, which the English were not ryed to receive, the disputes of his Bishops. b Ordericus Vitalis pag. 857, d. pag. 858, a.

i cap. 8.

shops be by him ended at home without carrying their complaints beyond Seas, according to th' Assize of *Clarendon*; the King in nothing obliged to *Rome*, but in the payment of *Peter-pence*, as his father had before k exprest himself.

k Baron. 10.  
11. anno  
1079. n. 25.  
l Lanfran-  
ci Epist. 7.  
l Eadmer.  
p. 125, 51.

m Eadmer.  
pag. 137, 46.  
pag. 138, 21.

n Eadmer.  
pag. 116, 23.  
o Ibid. p. 125.  
21.

p Answer to  
Sr. Ed. Cook,  
de jure Regis  
Ecclesiast. c. 9.  
n. 8. p. 100.

q Eadmer.  
p. 6, 23. &  
lib. 2. per to-  
num. p. 113.  
1. &c. p. 115.  
r Hen. 1. E-  
pist. apud For-  
val. col. 999,  
46, 49.

12. In *November* following the Pope and King had a<sup>l</sup> meeting at *Gisors* in *Normandy*, where *Calixtus* confirmed unto him the usages his father had practis'd in *England* and *Normandy*, and in especiall that of sending no Legat hither, but on the Princes desire. Yet notwithstanding the same<sup>m</sup> Pope not fully two years after address'd another Legat to these parts: but he by the Kings wisdom was so diverted, *ut qui Legati officio fungi in tota Britannia venerat, immunis ab omni officio tali via qua venerat extra Angliam à Rege missus est, &c.*

13. But hereby the way the reader may take notice, these words, *n Collata, o Impetrata, Concessa, Permissa*, used by our best authors in speaking of the Rights of the Crown in points of this nature, do not import as if it had onely a delegatory power from the Pope by some grant of his, as is fancied by those who would have it so; for we read of no such concessions from him, unlesse that of *Nicholas* the 2. of which in the next: But that they were continually exercised, the Pope seeing, & either approving, or at least making no such shew of his disliking them, as barr'd their practice, which by comparing the said authors is plain. *Eadmerus*, p. 125, 53, 54. speaks as if these customes were *concessa, fungi permissa* from *Rome*; which pag. 118, 33, 40. he calls *antiqua Anglia consuetudo, libertas Regni, &c.* So pag. 116, 22. he terms them *privilegia Patri & Fratri suo, sibi que à Romana Ecclesiâ jam olim collata, &c.* about which yet it is manifest, even by him, the Court of *Rome* was ever in contest with our Kings about them, who mainrained them as their Royalties against it, and challenged by *Henry* the 1. by no other title then *dignitates, usus, & consuetudines*,

# Chap. III. of the Church of England. 17

nes, quas Pater ejus in regno habuit, &c. which the Pope ſ calls honores quos antecessorum noſtrorum tempore Pater tuus habuerat, and affirms to be grata in ſup-  
*ſ Eadmer. p. 59. 59.*  
 ficie, --- interius requiſita & Legati vocibus expoſita, gravia & vehementiſſima paruerunt: ſo far have Popes been from conſerring the leaſt unto them. ſee cap. 3. n. 19.

14. It is true, things done by Princes as of their own Right, Popes finding not means to ſtop, would in former ages as later, by privilege continue unto them. *vide cap. 5. n. 4.*  
*Nicholaus Papa hoc Domino meo privilegium, quod ex paterno jure ſuſceperat, præbuit,* ſaid th' Emperours Advocate. And the ſame Pope finding our Kings to expreſſe one part of their Office to be regere populum Domini, & Eccleſiam ejus, wrote to Edward the Confefſor, *Vobis & poſteris veſtris regibus Angliæ committimus advocacionem ejuſdem loci, & omnium totius Angliæ Eccleſiarum, & vice noſtra cum Concilio Epiſcoporum & Abbatum conſtitutis ubique quæ juſta ſunt.* As a few years ſince, "the Republick of Venice not aſſenting to ſend their Patriarch to an examination at Rome, according to a Decree of Clement the 8<sup>th</sup>, *Paulus Quintus* declared that *impoſterum Venetiarum Antifites Clementis decreto eximerentur*: ſo that now that State doth by an exemption what they did before as Sovereign Princes. Beſides, Kings did many times as graunts ask thoſe things of the Pope, they well underſtood themſelves to have power of doing without him. \* Henry the 5<sup>th</sup>. demanded of Martin the 5. five particulars: to which his Ambaſſadors finding him not ſo ready to aſſent, told him *ſe in mandatis habere, ut coram eo profiteantur, Regem in iis ſingulis jure ſuo uſurum, utpote quæ non neceſſitatis, ſed honoris cauſa petat, & ut publicam de eare coram univerſo Cardinalium cætu proteſtationem interponant.* And to the ſame purpoſe there are ſundry examples yet remaining on record, where y the King on the petition of the Commons for redreſſe of ſome things (of Eccleſiaſtick

D

cogni-

*Baron. 11. Ann. 1059. n. 23.*

*Maurocen. Hiſt. Ven. Ann. 1601. p. 629. c. Ann. 1609. p. 687. b. Card. Oſſat. Epiſt. Romæ 17. Sept. 1601.*

*x Narratur hæc p. 56. 57. in vita Henrici Chicheley ab Antuaro Duck edit. 1617. y Rot. Parl. 17. Ed. 3. n. 59. in fine. 25. Ed. 3. cñ. puriſ. n. 13. y H. 4. n. 114. 3. H. 6. n. 38.*

See cap. 4.  
n. 10.

z Malm. de  
Jomif. l. 1. in  
Anselm.

fol. 127. 15.  
Gervas. Do-  
robern. col.  
1327, 58.  
a Eadmer.

p. 58, 44.  
b Ibid. p. 115,  
17.

c Diceto col.  
437, 64.  
d Eadmer.

pag. 27, 34.  
princi- ve-  
stro Anselmo.

e Ibid. p. 107,  
33. pag. 113,  
47.

f Gervas. Do-  
robern.  
col. 1663, 55.

g Eadmer.  
p. 30, 9.  
b Eadmer.

pag. 113, 47.  
continuatio  
Florent.

Wigorn.  
Ann. 1136.  
pag. 513.

i Gervas. Do-  
robern. col.  
1663, 55.

k Florent.  
Wigorn.  
Ann. 1070.

l post. n. 18,  
20, 60.  
m supra n. 17.

n vid. Mar.  
Paris Ann.  
1246. p. 699,

10. vide post  
n. 38. in textu  
e in margine.

o Malm. fol. 152, b. 12. see n. 8.

cognizance) amisse, first chuses to write to the Pope; but on his delay, or failing to give satisfaction, doth either himself by statute redresse th' inconvenience, or command the Archbishop to see it done.

15. But here before I proceed any farther, because it cannot be denyed, in former times there was often intercourse between the Church of *England* and *Rome*, and such as were sent from thence hither are by some styled *Nuncii*, by others *Legati*; I think it not amisse to consider what the cause was one side so much opposed the sending a Legat, and the other so laboured to gain it.

16. After the erection of *Canterbury* into an Archbishoprick, the Bishops of that See were held *quasi alterius orbis Papa*, as *Urban* the 2. styled them, did onely exercise *vices Apostolicas in Anglia*, that is used the same power within this Island the Pope did in other parts; the one<sup>b</sup> claiming, because *Europe* had been converted by disciples sent from *Rome*; the other, that he had sent<sup>c</sup> preachers through *England*. And is therefore called frequently in our writers *princeps Episcoporum Anglie*, *Pontifex summus*, *Patriarcha*, *Primas*, and his seat *Cathedra Patriarchatus Anglorum*; and this not in civility onely, but they were as well *sic habiti* as *nominati*. It is true, the correspondency between it and the *Roman* was so great, they were rather held one then two Churches: yet if any question did arise, the determination was in a councill or convocation here; as<sup>k</sup> the deposing *Stygand*,<sup>l</sup> the settling the precedency between *Canterbury* and *Tork*,<sup>m</sup> the instructions I mentioned of *Hen. 1.* to his Bishops, <sup>n</sup>the right of the Kingdome that none should be drawn out of it *auctoritate Apostolica*, do enough assure us, if recourse were had to *Rome*, it was onely <sup>o</sup>*ut majori Concilio decidatur quod terminari non potuit*, as to the more learned divines, to the elder Church, of greatest note in *Europe*, by whom these were conver-

ted,

ted, and therefore more revered by this, as that was most solicitous of their well-doing, and most respected for their wisdom. All which is manifest by that humble Letter: *Kenulphus* & others of *Mercia* wrote about 797. to *Leo* the 3. wherein it plainly appears, he seeks to that See for direction, because the conversion of the Nation first came from thence, and there resided in it men of sound learning, whom he doth therefore desire as *quibus à Deo merito sapientia clavis collata est, ut super hac causa* (which was the placing an Archiepiscopall chair at *Litchfield*,) *cum sapientibus vestris queratis, & quicquid vobis videatur nobis postea rescribere dignemini*. By which it is clear his inquisition was as unto persons of profound literature, (had the key of knowledge conferred on them) not as to those had auctority over this Church.

17. As for acts of Ecclesiastick auctority, what proceeded not from the King, did from th' Archbishop, who was not at all commanded by any, & *nullius unquam legati ditioni addictus*, but preceded them all. \* None did were a Miter within his Province, or had the Crozier carried, nor layd any excommunication; and when he did, the Clergy of the place did teach, both from the King and Archbishop, not to value it, on this ground, that *in Diocesi Archiepiscopi Apostolicam non tenere sententiam*.

18. As for Councells, it is certain none from *Rome* did, till 1125. call any here: if they did come to any, as to *Calcuith*, the King upon the Advise of th' Archbishop *statuit diem concilii*. So when *William* the first held one at *Winchester* 1070. for deposing *Stygrand*, though there came to it three sent from *Alexander* the second, yet it was held  *jubente & presente Rege*, who was president of it. The difference touching precedency between the

*Ibid. de Regibus lib. 1. fol. 16.*

p Gervas. Doroborn. col. 1663, 55. q *Ibid. col. 1485, 63.* r *Non est ante hac tempora Archiepiscopo Cantuariensi talis illata injuria, ut in Provincia ejusdem Archiepiscopi, immo & in Ecclesia, ut de cruce sileam, Legatus aliquis miratus incederet.* Gervas. Doroborn. Ann. 1186. col.

1485, 63. f Gerv. Doroborn. Ann. 1187. col. 1531, 38. r Concil. Spelman. pag. 293. u Florent. Wigorn. Ann. 1070. pag. 434. x *Vita Lanfranci cap. 7. p. 7. col. 1. d.*

y Note, you must see these subscriptions in the London edition 1572. for in that of Hanau 1605. they are for the most, (I know not on what warrant,) omitted.

z Diceto col. 485, 24. a in Bibliotheca Cotton fol. lxxiii.

b Mat. Paris hist. minor. Ann. 1107.

c 2 Thess. iii.

12.

d Philem. 8.

e Knox Hist.

Church of

Scotland p.

93 edit. 1644.

Sees of *Canterbury* and *York* having been before the same Pope, and by him sent back for a determination at home, it is observable, that in a Councell said therefore to be called *ex precepto Alexandri Papæ annuente Rege*, the Popes Legat subscribed the 16<sup>th</sup>. after all the *English* Bishops: as is truly y recorded in the *Antiquitat. Britannicæ Ecclesiæ* p. 95, 40. agreeing with a very ancient Ms. copy I have seen of the said Councell; as *Diceto* and others do z rank him after the King, *Canterbury*, and *York*. If any shall ask whether I have met no copies in which he was placed otherwise, I must confesse I have seen some books wherein he was above the *English* Bishops, next after the Queen; but they were onely late Transcripts, not of any Antiquity, as in a <sup>a</sup> book of *Crowland* writ since the beginning of *Henry* the 7.

19. The Pope for many years now past, for being a Spirituall Pastor, and Patriarch of the West, hath been treated with more reverence than any Bishop, and for being a potent temporall Prince, with more observance then meerly a Ghostly Father. A <sup>b</sup> grave writer notes; *Henry* the first having gone through the troubles were on him with his brother, and likewise *Anselm*, *subjugatis omnibus inimicis securus erat, nec aliquem ut primitus formidabat præter Papam, & hoc non propter spiritualem, sed temporalem potestatem*. Which as it is recorded of that Prince, so no question is true of many others.

20. By which we may see, when *Rome* did in former times *Apostolica auctoritate præcipere*, it was to Bishops (whom he styled his brothers,) no other then such fraternall commands the elder may and doth ordinarily lay upon the younger brother, of whom he is sollicitous; such as *St. Pauls* were c to the *Thessalonians*, <sup>d</sup> *Philemon*, &c. No other then of late *Calvins* were to *Knox*, who being chosen by certain of *Franckford* to be Preacher unto them, e *their vocation* he obeyed, albeit unwillingly, at the commandment of that notable servant

of



# Chap.III. of the Church of England. 21

of God *John Calvin*, &c. And a little after the Lords of Scotland sending for him home, & did accompany their letters to him with others to *Mr. Calvin*, craving of him, that by his auctority he would command the said *John* once again to visit them, &c. And truly whosoever will without partiality seriously consider the whole contexture of our Lawes and Histories, weighing one circumstance with another, must conclude the Popes commanding to have been *volentibus*, not *volentibus*, (as *St. Hierom* says those of a Bishop ought to be) for if disliked, his precepts were<sup>h</sup> questioned, <sup>i</sup> opposed, & those he sent not permitted to meddle with that they came for, their prohibitions that others should not, neglected: The *English* having ever esteemed the Church of *Canterbury* in Spiritualls, that is *quæ sunt ordinis*, without any intervening superior <sup>1</sup> *omnium nostrum mater communis sub sponsi sui Iesu Christi dispositione*; in other things, as points of Government, the ordering that of right and custome ever to have belonged to the King assisted\* with his councill of Bishops, and others of the Clergy, who was therefore called *Vicarius Christi*, &c. as I shall shew hereafter more at large.<sup>m</sup> The Church of *England* holding that of *St. Augustine* an undoubted truth, *In hoc Reges, sicut eis divinitus precipitur, Deo serviunt in quantum Reges sunt, si in suo regno bona jubent, mala prohibeant, non solum quæ pertinent ad humanam societatem, verum etiam quæ ad divinam religionem*: and accordingly our Kings, so far as any Laws or Records of their actions are extant, from *Ethelbert* by the *Saxons* to the Conquest, and from the *Normans* to these later times, have upon occasion exercised a power, shewing such titles were not in vain conferred on them. Neither did any decision, though never so punctually

f *Ibid.* p. 110

g *Epitaph.*  
Nepotiani ad  
Heliodorum  
10. 1.

h *Eadmer.*  
pag. 92, 40.  
p. 125, 29.  
i *Gervas. Do-*  
*robern. col.*  
1315, 66.  
1316, 8. &  
1318, 39.  
1359, 41, 59.

Wm  
Thorn 1802,  
26, 1848, 28.  
and these  
may serve  
in lieu of  
many others  
may be  
alledged.  
k *Ger. Doro-*  
*bern. col.*

1558, 54.  
l *Ibid. col.*  
1663, 24, col.  
1615, 62.

\* Si Episcopi  
tramitem ju-  
stitie in aliquo  
transgredien-  
tur, non esse  
Regis, (viz.  
alone,) sed

canonum judicium, sine publico & Ecclesiastico Concilio illos nulla possessione privari debuisse; Re-  
gem id non rectitudinis zelo, sed commodi sui compendio fecisse. *Malms. fol. 103. a. 13.* reports  
this saying of a Legat. see n. 24. m *Contra Crescon. Grammat. l. 3. cap. 51. 10. 7.*

had in *Rome*, unless the parties agreed, stint the strife, till the King concurred with it; as the frequent determinations on the behalf of *Canterbury* in point of superiority above *York*, found in *Malmsbury* and others, may teach us, which yet never received a finall end, till *Edward* the 3. under the great seal set a *o* period to that long controversy.

n *Malms. de Pont. lib. 1. fol. 118, a. 10 fol. 120, b. o Antiquit. Britan. Ecclesias, in Simone islep. p. 269, 15. p De auctoritate & usu Pallii cap. 4. q De Electione & electi potestate c. 4. r Lyndwood de temp. ordinand. cap. 2. ad verbum expresse. f Philip. iii. 3. t W<sup>m</sup>. Thorn. col. 1801, 53. u Ibid. 1814, 34. x Gervas. Dorobern. Ann. 1193. col. 1602, 64.*

21. But after the Pope began to think (or rather to say) himself had onely *plenitudo Ecclesiastica potestatis*, & that no Councell could give Laws to him, but all receive strength from him, and the Canonists flattery extended to declare him<sup>r</sup> *supra jura*, & *in eo sufficit proratione voluntas*; his missives ran in an higher tone then formerly, and his commands, which were at first according to *th* example of *St. Paul* joyned with exhortations, entreaties, and the like, to carry *Apostolica auctoritate comprimere*; and to *th* Archbishop demurring in *th* execution of them, *tuum candelabrum concutimus*, & *tantam presumptionem cum gravibus usuris exigemus*; and, *si mandatum nostrum neglexeris vel distuleris adimplere, quia justum est ut ei obedientia subtrahatur qui sedi Apostolicæ neglexerit obedire, venerabilibus fratribus suffraganeis tuis per scripta nostra mandavimus, ut tibi reverentiam non impendant. Quod si &c. tibi feceris exhiberi, scias te tunc ab Episcopali dignitate suspensum, &c.* phrases and manners of writing denoting much more of auctority then was used by Popes in elder times. By which is manifest, the point in difference between the Archbishop and the Pope to have been not the sending a Legat hither, but of one with a power above him, to command the *English* Clergy, that is to remove their dependency from him to *Rome* as a superior over him.

22. To his gaining which these usages of *th* Archbishops were great stops, drawing so near an equality, and so pregnant testimonies of his no-divine right to meddle



meddle here, not easy to be removed, unlesse some from the Pope were admitted into the Kingdome, that might at least give an essay to the guiding the *English* Church after the papall interest: but that, how earnestly soever prest, came to no effect till 1125. *Iohannes Cremonensis*, a person well understanding (as appears by his carriage six years before at *Reims*) the designs of *Rome*, & came to the King in *Normandy*; where after some stay, his journey hither was permitted; with what qualifications I find not; but coming with Letters to *Canterbury* at Easter, performed th' Office of the day in a more eminent chair as an Archbishop, for so I English *loco summi Pontificis*, according to the phrase of those times, and, though a Cardinall priest, used insigniis Pontificalibus the habit of a Bishop: which being an unusuall novelty, past not without scandall. But in a councill which he held and presided in at *London*, the Kingdom took more offence: I shall deliver it in my authors own words; *Totam Angliam in non modicam commovit indignationem: Videres enim rem eatenus regno Anglorum inauditam, Clericum scilicet Presbyterii tantum gradu perfunctum, Archiepiscopis, Episcopis, Abbatibus, totiusque regni nobilibus qui confluxerant, in sublimi solio presidere; illos autem deorsum sedentes, ad nutum ejus vultu & auribus animum suspensum habentes.* From whence we may conclude it a thing before not heard of, for any Legat, though a Cardinall, to precede Bishops, (the first Councill in which they preceded Archbishops I take to have been the Councill of *Vienna* 1311. where th' Archbishop of *York* is noted to have been placed *primus & precipuus post Cardinales, & post Trevirenses Archiepiscopum*;) or be seated in a more eminent place over them; (I have shew'd they did not subscribe in *English* Councils above them;) that these mutations were scandalous to the nation.

23. As this is the first Ecclesiastick Synod called and managed

*Ordericus Vitalis* pag. 862.

*Simeon Dunelmensis Ann.* 1125, col. 251, 61.

*a Eadmer, pag. 107, 33. pag. 113, 4. Ger. Doro-bern. col. 1663, 55.*

*b Injusta novitas. Doro-bern. Ibid. c Ger. Doro-bern. Alia Pont. ibid. col. 1663, 48.*

*d Thomas' Stubs, Aff. Pont. Ebor. col. 1730, 30. e Supra n. 18.*

f Apud Sim.  
Dunelm. col.  
252. 22.  
g Iohn xxi. 15,  
16, 17.  
h Apud Ead-  
mer. pag. 115,  
9. Ann. 1115.  
i Ecclesiastium  
prepositi.  
k Eadmer.  
pag. 27, 37.  
l Ordericus  
Vitalis pag.  
862, f. omnes.  
m Petr. Ble-  
sens. Epist.  
148.  
n De conside-  
ratione ad Eu-  
gen. lib. 2.  
cap. 8.  
o Ext. Com. de  
Majoritat. &  
obediens. c. 1.

managed by any Legat from Rome; so before his credentia<sup>l</sup> Letters from *Honorius* the 2. as well to the Lay as Clergy, I have not met with the Text *g Pasce oves meas* used to prove him the generall Pastor of all the World: it is true, *Paschalis* the 2. <sup>h</sup> ten years before uses it to prove his auctority over <sup>i</sup> Bishops; but neither doth *k Anselme* 1095. produce it, neither doth this Cardinall at <sup>l</sup> Reims 1119. mention it, though either of them did allcledge as many places of Scripture as were then common to prove th' extent of his power; and *Petrus Blefensis*, that lived a little after, <sup>m</sup> interprets it as spoken to all Bishops, and to import no other then *Evangelizare*: a certain signe, if that exposition were hatch't before, it was not common, which afterward approved by <sup>n</sup> St. Bernard, and inserted into <sup>o</sup> the Canon Law by *Boniface* the 8. about the year 1300. is now stood upon as the Basis of papall greatnesse. But to return to that we were on.

p Malms. de  
Pont. lib. 1.  
fol. 131. b.  
39.  
q Gervas.  
Dorobertn.  
col. 1663, 64.  
r Eadmer.  
pag. 14, 13.  
pag. 30, 9. pag.  
93, 3.  
s Ibid. 58, 43.

24. The Archbishop sensible of these indignities, proceeds not as his predecessor, by joynt Councell of the Bishops, Abbots and Nobility, but hath himself recourse to Rome (who already knew *p se convertere ad oratorum versutias, dummodo consulat suis profectibus*) where the Pope, (which was *Honorius* the 2.) committed unto him <sup>q</sup> *vices suas in Angliâ & Scotiâ, & Apostolica sedis Legatum constituit*: So that he who before was <sup>r</sup> *Primas Angliæ, Scotiæ & Hiberniæ, necne adjacentium insularum*, that none else <sup>s</sup> *gerebat vices Apostolicas in Britannia*, and this of his own right, without any delegatory power, might now doing the same be said to do it by a power derived from Rome. An invention highly advantageous to the Papacy: for before the King and Archbishop, or rather the Archbishop by the Kings will and appointment, had ever taken cognizance of all matters of Episcopacy, as the erection of Bishopsricks, disposing and translating Bishops, &c. So *Paschalis*  
the

the 2. expostulates with Hen. the 1. <sup>t</sup> that *præter auctoritatem nostram Episcoporum translationes præsumitis*, &c. and the \* deposing of them to have been in a Synod  
 " Historians of all times before assure us, even unto Lanfrank, who \* attempted it upon small grounds against Wolstan. As for dividing Bishopricks, and erecting new where none were, y Theodore did five in Mercia cum consensu Regum & principum, (without ever sending to Rome) as he did others 7 elsewhere. And Henry the 1. long after placed Episcopall Chaires at Ely and Carlisle, without acquainting the Popes with it. It is true, Anselme an Italian, either not knowing the rights of the Kingdome, or rather out of a desire to interest the Pope in every thing, writes to him of Ely, that *de vestra pendet auctoritate prudentia* to adde strength to Ecclesiastick ordinances of this nature; yet it is clear by his very Letter, the King, Bishops and Nobility had already concluded on it, with whom he had concurr'd, asking Paschalis assent after the deed done: which shews rather he did it in civility, then of necessity, *ne à posteris ulla præsumptione violetur*, that no cavilling might arise in the future to the disturbance of an action well settled, that past by so great advice, as not onely the English Church, but the first Bishop of the world and Patriarch of the West joyned in seeing the needfulnesse of it. And it is here not unworthy the remembering, that Q Mary, how much so ever addicted to Rome, yet admitted the <sup>b</sup> Bishops of those Sees her Father had erected during the schism. (as they called it) to sit in Parliament, before any confirmation of them by the Pope.

25. Of these and the like, though cases proper for the 'Papacy alone, yet being without scruple exercised

2. Pb. & Mar. Journall des Seigneurs: yet the Act of reconciling this Kingdome to Rome, and confirming those Bishopricks by the Pope, past not till the 30. of November after, however they were reputed lawfull Bishopricks before. c Caus. 3. quest. 6. cap. 7. & de Translat. Epist. cap. 2. Bellarm. lib. 4. de Eccles. cap. 3 §. Ratio, &c.

t Apud Eadmer. p. 115. 43. &

\* pag. 129, 52. see n. 20.

u See Bed.

lib. 4. cap. 2. 6;

Gervas. Do-

robert. col.

1638, 37.

x Mar. Paris

1095, pag. 20.

46. Ailredus

col. 406, 10.

y Flor. Wigo-

gor. pag. 559.

7 Beda lib. 3.

cap. 7. lib. 4.

cap. 6, 12. li. 5.

cap. 19.

a Eadmer.

pag. 95, 50.

b Gloucester

and Chester

in Parliament

1 Mar. 2 April 1554.

Parl. 2. item

Parl. the 3.

12 November

1554. 1. and

in the Church of England, and no controul from Rome; it would not be easy to dispossesse the Archbishop of meddling with, by strong hand, especially on an essay made before in the case of *Wilfred*, it being affirmed, <sup>d</sup> *quod esset contra rationem, homini jam bis à tota Anglorum Ecclesia damnato, propter qualibet Apostolica scripta communicare*: the way therefore of making him the Popes Legat was invented, by which those particulars he did before without interruption of his own right, he (whom it was not easy to barre of doing them) might be said to act as his agent: which was about \* this time first committed unto him of any Archbishop of *Canterbury*; though \* *Baronius*, not finding how the very same past before, fancies *Theodore* to have done them, *cui totius Anglia à Romano Pontifice veluti Apostolica sedis Legato cura credita erat*; who certainly if he were his Legat, was very immorigerous in the case of *Wilfred*. But to leave that as a *Chimara* not to be assented to, mentioned by no ancient author, it is true, not long after he conferr'd the title of *Legatus natus* on th' Archbishop, f of which hereafter.

d *Apud*  
*Malmsb. fol.*  
152. 2. 34.

\* 1127.

e *Baron. 10m.*  
3. *Ann. 676.*  
n. 10.

f n. 40.

g *Florent.*  
*Wigorn. An-*  
*nus 1126.*  
1127. & alii.

h *Apud*  
*Malmsbur.*  
*fol. 101. 10-*  
*hannes Ha-*  
*gulstad. col.*  
259. 9.  
*Richardus.*  
*Hagulstad.*  
*col. 314. 18.*  
*vid. col. 313.*  
32.  
i *Gervas.*  
*Dorobern.*  
*col. 1344. 6.*

26. To return to th' Archbishop, who came home with this Legatine power 1127. & crowns the King at *Windsor*, and in *May* following holds a Councill at *Westminster*, *cui præsedit ipse, sicut Apostolica sedis legatus*; which is the first Councill any Archbishop is noted to have held as a Papall Legat; and during his life, which was seven years, *England* did not see any other.

27. After his death the Sec of *Canterbury* lay two years vacant, so a fit time for the Pope to look this way, especially *K. Stephen* making it part of his title, that he was h confirmed by him in his Kingdome: therefore 1138. *Innocentius* the second sent hither *Albericus* Bishop of *Hofstia*, the second stranger I find exercising the Legatine auctority in *England*; yet he was not at first received for one, but *vix tandem pro reverentia Domini*

*Domini Papa.* He indeed went farther then ever any had, for he not onely called the Clergy *Apostolica auctoritate* (as our Historians terme it) to a Synod, (I confesse he avoyds the word in his letters of summons, styling it *\* colloquium*, perhaps not to enter into dispute with the King, who then took himself to be the onely<sup>l</sup> caller of them, and the allower of what they did) but did farther command the Prior and Convent of *Canterbury*, &c. <sup>m</sup> to chuse such an Archbishop, *cui sacrorum canonum auctoritas in nullo valeat obviare, cui comprouinciales Episcopi pariter debeant assentire, & cui Dominus Rex nec possit nec debet assensum suum iuste denegare:* but farther not at all intromitting himself. And in the Councell he held, amongst other particulars, he ordained, that if any injured an Ecclesiastick person, <sup>n</sup> *Nisi tertio admonitus satisfecerit, anathemate feriatur, neque quisquam ei prater Romanum Pontificem, nisi mortis urgente periculo, modum penitentiae finalis injungat.* This is the first that by Canon, ought done in England was reffer'd to *Rome*, as having a greater power then the *English* Bishops to absolve: (of the Laws of *Hen.* the 1. I shall speak<sup>o</sup> hereafter.) But whether it were not here much regarded, or th' excesses used by King *Stephen* against certain Bishops, and the prohibiting a Councell held at *Winchester* to send to *Rome*, as <sup>p</sup> against the dignity of the realm, or that he freed of imprisonment desired to make so potent a party, as the Clergy then was, more of his side, I cannot say; but assuredly it was again renewed in a<sup>q</sup> Councell at *London* about some four years after.

28. The same Pope 1139. conferr'd upon *Henry*, *K. Stephens* Brother, and the potent Bishop of *Winchester*, this Legatine power, which was by him publish't in a Councell at *Winchester*, where his faculties were read<sup>r</sup> bearing date the 1. *March*; and being as well's *Anglia Dominus* by reason of the power he held with *Stephen*, as *Apostolica sedis Legatus*, he called

<sup>k</sup> Gervas. Doroborn. col. 1346, 58.  
<sup>l</sup> Eadmer. p. 6, 29. p. 24. 11.  
<sup>m</sup> Ger. Dor. ibid. lin. 65.

<sup>n</sup> cap. 9. apud Gervas. Dorob. 1348. & Richard. Haugst. 328.

<sup>p</sup> Malms. fol. 103. a. 1. b. 54, 55.

<sup>q</sup> H. Hunt. fol. 225. a. 36. Ann. 1142, 8. Steph.

<sup>r</sup> Malms. fol. 103. a. 31. <sup>s</sup> Ger. Doroborn. col. 1343, 44.

thither th' Archbishop that had then some contest with the Monks of St. *Augustines*, (whom the Pope generally favour'd against him) referr'd to his decision from *Rome*, so that he caused both parties the <sup>1</sup> second time to appear there before him 1143. as Legat, and by compromise ended the businesse. Yet this calling of the Archbishop <sup>2</sup> unto him was not taken well: and the same year 1143. he did by Apostolick command restore *Jeremy*, removed by *Theobald*, (notwithstanding his appeal to *Rome*) to be Prior of *Canterbury*: which restitution the said Prior did not think fit to stand by, but for avoiding trouble took an 100. marks to pay his debts, and placed himself in St. *Augustines*. By these carriages there grew great distasts between these two great Prelats: the one as Archbishop prohibited *Winchester* <sup>3</sup> all Ecclesiastick functions, however the Popes Legat; and both apply themselves to the Pope; from whence our Historians do fetch the use of Appeals to *Rome*; as indeed there could not well be any cause of them before: for as the one case is the first ever any Archbishop was called out of his Diocese to make answer to any Legat as his Superior; so I believe it will be hard to give an example of ought done by th' Archbishop in his own Bishoprick till now alter'd by a forreign auctority. And here, having mentioned the introducing of Appeals, the reader will give me leave to digresse a little, both to shew what is meant by them, and the manner of prosecution of them; and then <sup>4</sup> to return, and observe the event of the Archbishops and Legats in the Court of *Rome*.

29. It cannot be denyed, the word *Appeal* to have been used in former times with reference to the Papacy.

<sup>5</sup> Malmsh. f. 149, a. 50. *Cum præsul sedem Apostolicam appellasset*, sayes *Malmshury* of *VVilfred*; and a Councell held in *Italy* concerning him, <sup>6</sup> *Apostolicam sedem de sua causa appellans*: Ingulpho MS. *sen additionibus ejus, in Bibliotheca Cotton.*

<sup>1</sup> W<sup>m</sup>. Thorne col. 1853, 32.

<sup>2</sup> Gervas. Doroborn. col. 1665, 24. indignatus Theobald.

<sup>3</sup> Iohan. Magulstad. col. 275, 42. interdixit Episcopo, Episcopale & sacerdotale officium.

<sup>4</sup> Num. 40.



and so of some others. Yet nothing is more certain then those in whose time this was did not at all hold the Pope to have any power of righting him, other then by intercession; not as a superior Court, by sentencing in his favour, to undo what had past *Theodore*; (\* without whose assent the King could not have deprived him of his seat,) for when the Popes <sup>b</sup> Letters were brought hither for his restitution, *Egfrid*, with th' advise of his Bishops, not onely refused, but clapt *Wulfred* in prison; and after his death the <sup>c</sup> Pope sending others *vita graves & aspectu honorabiles*, *Alfrith* though he received the men with great reverence, yet would by no means admit the restauration they came about, but affirmed it against reason to do it (he having been twice condemned) *propter qualibet Apostolica scripta*. And as this was in a time when Christianity most flourished in this Nation, having in generall <sup>d</sup> *fortissimos Christianosque Reges*; so of the Kings that did it, of *Egfrid* <sup>e</sup> *Beda* left, that he was *piissimus & Deo dilectissimus*: neither can he find any other thing to blame in *Alfrith* worthily, and the Bishops that did <sup>f</sup> concur in the action were & holy men, well seen in divine and secular learning; so that it is not imaginable any thing past them not warranted by the Doctrine and rules of this Church.

30. For the understanding of which, we are to know the word *Appeal* is taken severall wayes; sometimes <sup>h</sup> to accuse, sometimes for referring our selves to some one for his judgment; such was that of *Wulfreds* appealing to *Rome*, as to a great spirituall Doctor and Church whose judgment was very venerable in the World, as of late *Iohn Calvins* and the Church of *Geneva* was to them of *Scotland* and *Frankford*, &c. another way we take it for removing a cause from an inferior to a superior Court or Iudge; that hath power of disannulling whatsoever the former did; and this is that our Historians affirm not to have been in use till af-

<sup>a</sup> Stubbs de Archiepisc. Ebor. col.

1691. 10.  
<sup>b</sup> Malm. fol. 150, a. 43.

<sup>c</sup> Ibid. fol. 152. a. 32, 34.

<sup>d</sup> Beda lib. 4. cap. 2.  
<sup>e</sup> Apud Malmshur. f. 10. b. 23, 36.

<sup>f</sup> Stubbs de Archiepisc. Ebor. in Wilfrido col. 1691, 10.

<sup>g</sup> Bed. lib. 4. cap. 2. cap. 9. lib. 5. cap. 20.  
<sup>h</sup> Blasius Desum de prodicione appellata. Liv. lib. 26. such were those Appeals in Parliament, the 11. and 21. of Ric. the 2. which might be otherwise called accusations.



<sup>i</sup> Eadmer.  
pag. 39, 21,  
30.

ter 1140. It is certain, long after *Wilfred*<sup>i</sup> the Bishops and Nobility did assure *Anselme*, that for any of the great ones, especially him, to have recourse to *Rome* without the Kings leave, to be *inauditum & usibus ejus omnino contrarium*; and therefore required of him an Oath, *quod nunquam amplius sedem Sancti Petri, vel ejus vicarium, pro quavis qua tibi ingeri queat causa appelles*. I know *Anselm*, an *Italian*, where the opinion of the Papall absoluteness had now begun to roöt, did maintain this was *Petrum abjurare*, and that *Christum abjurare*, and is the first of our Bishops spake any thing in that sort; with whose sense the Kingdome did not concur in it. For it is manifest, in those dayes and after, Appeals to *Rome* were not common. In the

<sup>k</sup> Apud Ead-  
mer. p. 113, 3.

<sup>l</sup> Ibid. p. 115.  
33.

<sup>m</sup> pag. 85, 41.

<sup>n</sup> Henry the  
1<sup>st</sup>.

<sup>n</sup> Fabiani E-  
pist. 3. & Sixti  
3. tom. 1.  
Concil. &  
apud Gratian.  
c. 3. q. 6. cap. 1.  
Leg. Hen. 1.  
cap. 5. p. 178.  
28.  
o Leg. Hen. 1.  
pag. 179, 9.

year 1115. <sup>k</sup> *Paschalis* the 2. ex postulates with *Henry* the 1. that *Nullus inde clamor, nullum judicium ad sedem Apostolicam destinatur*: and again, <sup>l</sup> *vos oppressis Apostolica sedis appellationem subtrahitis*. And *Anselme* himself speaking of the proceeding of the King in a case by him esteemed onely of Ecclesiastick cognizance, lays down the manner to be, that it should be onely <sup>m</sup> *ad singulos Episcopos per suas parochias, aut si ipsi Episcopi in hoc negligentes fuerint, ad Archiepiscopum & primum*; adding nothing of carrying it to *Rome*, of which I know no other reason, but that it was not then usuall to remove causes from the Primate thither. Yet after this, either the importunity of the Pope prevailed with the <sup>n</sup> King, or the passage was inserted after his dayes into the Lawes carry his name; (as some other in the same chapter may seem to have been) but certain in them though he give for a rule that of Pope <sup>n</sup> *Fabian* or *Sixtus* 3. *ibi semper causa agatur ubi crimen admittitur*, yet a Bishop erring in faith, and on admonition appearing incorrigible, <sup>o</sup> *ad summos Pontifices* (the Archbishops) *vel sedem Apostolicam accusatur*. This is the onely case wherein I find any *English Law* approve a forreign judicature.

31. But whether from the countenance of this Law, or the great oppressions used by the Legat King *Stephens* Brother, or the frequency of them, it is certain, 1151. Appeals were held a *cruell* intrusion on the Churches Liberty; so as in the Assize at *Clarendoun* 1164. collected by the body of the Realm, & the 8. Chapter is solely spent in shewing the right of the Kingdome in that particular: which *Iohannes Sarisburiensis* interprets, *quod non appellaretur pro causâ aliquâ ad sedem Apostolicam, nisi Regis & Officialium suorum venia impetrata*. Upon which the Bishop of London moved *Alexander* the third, *Beckets* cause might be determined *ſ appellacione remota*: at which the Pope seems to be moved, and told him, *hæc est gloria mea quam alteri non dabo*. And though it seems by a *Letter* of the same Prelat, the King would have restrained his power onely to such as had first made tryall of receiving justice at home, claiming *ex antiqua regni institutione, ob civilem causam nullus clericorum regni sui fines exeat*, &c. and that too, if amiss, would have corrected by th' advise of the *English Church*: yet while th' Archbishop lived, that would not be hearkened to; but after his death, at the peace which 1172. ensued between him and the Church of *Rome*, it was onely concluded, the King not to hinder Appeals thither in Ecclesiastick causes, yet so as a party suspected before his going was to give security not to endeavour *malum suum nec regni*. But the Kingdom meeting in Parliament at *Northampton* 1176. not fully four years after, would not quit their interest, but did again renew th' Assize of *Clarendoun*, using in this particullar somewhat a more close expression:

*∴ Iusticia faciant querere per consuetudinem terra illos qui à regno recesserunt, & nisi redire voluerint infra terminum nominatum, & stare in curia Domini Regis, ut lagentur, &c.* in effect the same as *Gervasius Dorobernensis* well understood, who tells us, *⁂ Rex Anglia*

*Henricus*

p Hant. fol. 227. b. 7. c. alii.

q Gervas. Dorobern. col. 1387. r Epist. 159. pag. 254.

f Gervas. Dorobern. col. 1396. t Apud Hoveden, Ann. 1166. fo. 287. b. 44. apud Dicet. Ann. 1168.

∴ Apud Hoveden, fol. 314. b. 3. u Gervas. Dorobern. Ann. 1176. col. 1433, 12.

Henricus convocatis regni primoribus apud Northampton, renovavit assisam de Clarendonia, eamque præcepit observari; pro cuius execrandis institutis beatus martyr Thomas Cantuariensis usque in septennium exulavit, & tandem glorioso martyrio coronatus est.

32. After which the going to Rome remained during this Kings and his Son Richard's time, onely according to their pleasures, the Clergy lying under the penalty of this Law, if they did attempt farther then the Princes liking : of which we have a very pregnant example in the case of Geffrey Archbishop of York, K. Richards Brother, who accused to Cælestinus 3<sup>m</sup> that he did not onely x refuse Appeals to Rome, but imprisoned those who made them; upon it the Pope y commits the cause to be heard by the Bishop of Lincoln and others, who thereupon z transfer themselves to York, where hearing the Testimonies of those appeared before them, assigned him a time to make his defence to the Pope. But the Archbishop being then well with his Brother, pretended he could not present himself in Rome a for the Kings prohibition, and the indisposition of the aire. Not long after the King and he fell so at odds, b quod præcepit illum dissaisiri de Archiepiscopatu suo, &c. Cælestinus upon this takes an opportunity to declare a suspension to be notified through all the Churches of his Diocese, injoyning, what the King had before, the Lay as well as the Clergy, c ne ipsi Archiepiscopo vel officialibus ejus in temporalibus respondere præsumant, donec de ipso Archiepiscopo aliud duxerimus statuendum. The offence with his Brother still remaining, the Bishop expecting now no help at home, goes upon this to Rome, makes his peace with the Pope, and returns : but the King d committed the care even of the Spiritualls of his Archbishoprick to others, without permitting him or his Agents to meddle with ought, till about two years after he e reconciled himself to the Crown; after which he gave Inno-

centius

x Epist. Cælestinii apud Hoveden.

Ann. 1195.

fol. 426. b. 26.

y Eadem

Epist.

z Idem, f. 427.

a. 26.

lin. 38.

a Hoveden,

Ann. 1195,

fol. 427. a. 48.

b Ibid. f. 428.

a. 42.

c Hoved.

Ann. 1196.

fol. 434. a. 23.

d Ibid. fol.

435. b. 52.

e Ibid. fol.

442. b. 19.

# Chap. III. of the Church of England.

33

ius 3<sup>m</sup> occasion to write, *Non excusare te potes ut debes, quod illud privilegium ignoraris, per quod omnibus injuste gravatis facultas patet ad sedem Apostolicam appellandi, cum & tu ipse aliquando ad nostram audientiam appellaris;* and a little after, *Nec auctoritatem nostram attendis, nec factam tibi gratiam recognoscis, nec appellationibus desers quæ interponuntur ad sedem Apostolicam,* &c. And about the same times Robert Abbot of Thorney, deposed by Hubert th' Archbishop, was laid in prison a year and half without any regard had of the Appeal by him made to the Pope: and this to have been the practice during King Richards time, the continued quarrells of Popes for not admitting men to appeal unto them doth fully assure as.

g Hoveden,  
Ann. 1201.  
fol. 465. a. 21

g Hoveden,  
Ann. 1195.  
fol. 430. b. 37.

33. But Innocentius 3<sup>m</sup> having prevailed against King John, and the Clergy great instruments in obtaining Magna Charta from that Prince, either in favour of them, or for some other reason, there was inserted, *h Liceat unicuique de cetero exire de regno nostro & redire salvo & secure per terram & per aquam, salva fide nostra, nisi in tempore guerra per aliquod breve tempus:* which clause seems likewise to have been in that of Henry the 3. to his Fathers *i in nullo dissimilis:* after which it is scarce imaginable how every petty cause was by Appeals removed to Rome, and th' Archbishop forced to appear before any had the least auctority from thence.

h Magna  
charta apud  
Mat. Paris  
pag. 258, 53.  
Lond. 1640.  
i Mat. Paris  
Ann. 1224.  
pag. 323, 28.

The Popes themselves wise men saw th' inconvenience, that these carriages must end either in rendering th' Archbishop contemptible, by taking all power out of his hands, or the Realm resume its ancient right, and prohibit the carrying ought beyond seas, or admitting any Legat into the Kingdom; thought of the way of granting severall priviledges to the Archbishoprick, which first began about the time of Innocentius the 2. whom others followed.

34. Gregory the ninth therefore moved by one of

F

them

k Bulla Gregor. ix. in antiquo MS. dat. Interamnaz 27. Iunii, 1236.

them (which seems to be St. Edmund) writes thus unto him : *¶ Vi cum appellationis remedium non ad defensionem malignantium, sed ad oppressorum subsidium sit inventum, yet th' Archbishop attempting sometimes excessus corrigere subditorum, quidam eorum, ut correctionem effugiant, appellationes frustratorias interponunt, quibus si cite pro reverentia sedis Apostolica humiliter deferatur, illi ex impunitate deteriores effecti pejora presumant, & alii eorum exemplo redduntur ad vitia proniores; unde humiliter postulastis, &c. -- ut providere super hac solita diligentia deberemus: ut igitur auctoritati tue in rectis dispositionibus nihil tali pretextu deesse contingat, fraternitati tue presentium auctoritate concedimus, ut, non obstante \* frivola appellationis objectu, libere valeas in corrigendis subditorum tuorum excessibus officii tui debitum exercere.*

\* Frivola Appellatio que dicitur, vide Lindwood cap. 2. verbo frivole, de Appellationibus. scil. que vana & inanis... vel quando nulla causa est expressa, vel non legitima, dato quod sit vera, vel licet sit legitima, est tamen manifeste falsa. Et vide ibid. verbo Pallietur. . . At Viterbo 4. Martii, 1235. l. col. 1665, 23. \* Sic MS. sed legendum tuæ. . . At Perusium 6. Maii 1235.

35. . . And for that his Agents here in their citations of th' Archbishop did not use that respect unto him which was fit, but as *Cervasius Dorobernensis* observes of one of them, *¶ Legati privilegium plusquam deceret extenderet in immensum, suumque Archiepiscopum & Episcopos Angliæ ut sibi occurrerent quolibet evocaret; the same Pope did therefore declare, that, cum nimis indecens videatur, ut per literas Apostolicas tacito \* tuo nomine dignitatis inter privatas personas stare iudicio compellaris, nos fraternitatis tue precibus inclinati, auctoritate tibi presentium indulgemus, ut per literas à sede Apostolicâ impetratas que de dignitate tua non fecerint mentionem respondere minime teneris; &c. Dat. Viterbii 4. Non. Martii, Pontif. nono.*

36. . . And because th' Archbishop had on many slight occasions been drawn beyond seas, to the great impoverishing th' Episcopacy, the same Pope two months after writes, *Ea propter, venerabilis in Christo frater, tuis supplicationibus inclinati, fraternitati tue auctoritate presentium indulgemus, ut per literas Apostolicas extra Angliam.*

*Angliam invitus non valeas conveniri, nisi de indulgentia hujusmodi fecerint ea litera mentionem, aut per te aliquod factum fuerit per quod sit indulgentie huic derogatum.*  
Dat. Perusii 4. Non. Maii, Pontificat. nono.

Innocentius 4. *ut nullus sine speciali Apostolicæ sedis licentia, præter Legatos ipsius ab ejus latere destinatos, in personam tuam præsumat excommunicationis sententiam promulgare.* Lugduni 13. Kalend. Octob. Pontif. 4.

*At Lions the  
19 September*

37. It would be tedious to repeat all the bulls found in the said old MS. and other books since 1130. (for before it seems there was none in this kind) to conserve some power in th' Archbishoprick, yet so as it might ever depend on Rome; and how much the Papacy gained by these, every man sees.

I. The right of th' Archbishoprick was, *none by appeal might remove any Ecclesiastick cause from his judicatory: the Pope grants, he shall proceed notwithstanding a frivolous Appeal.*

II. The right was, *he was not at all under any Legat: See before the grant is, he should not be tyed to answer, if they did not mention his dignity in their citations.* n. 17.

III. The right was, *he should not be drawn beyond the seas (of which in the next:) the grant is, he should not be compell'd to go, unlesse mention were made of that Bull.*

III. The question was, *whether the Pope might excommunicate any within the Diocese of Canterbury: the grant is, None but a Legate de latere should th' Archbishop.* cap. 2. n. 17.

Yet certainly Popes did what they well could, retaining to themselves that vast power they then pretended, to conserve in the Archbishoprick some auctority.

38. But the frequent citing him and others out of the Realm, and the carrying their causes to Rome, did not at all satisfy the subject; whereupon the body of the Kingdome, <sup>m</sup> in their querulous letter devised and sent by them to *Innocentius 4<sup>th</sup>.* 1245, (or rather to the

*m Apud Mar-  
patis p. 100.*



n Note, this is omitted in the copy of this letter in *Mat. Paris* which is found in other MS. copies of the same, as in one my learned friend Mr. W<sup>m</sup>. Dugdale helped me to the sight of, the Book it self belonging to Mr. Roper of Lincolns Inne, in which it is fol. 117, b, and ought to be in all; for in the *Gravamina Anglie* sent to the same Pope 1246. one is, *quod Anglici extra regnum in causis apostolicis tractantur.* *Mat. Paris* pag. 699, 10. *o* Regist. 193, b. *Cook*, Inltir. 3. pag 179. *p* *Parl.* at Cambridge 12. Ric. 2. cap. 15. apud *Henricum Knighton* col. 2734, 40. 5. Ric. 2. cap. 2. *q* *Hen. Knighton* col. 2601, 41. \* *Henry Beaufort.* *r* *Rot. Parl.* 10. Hen. 6. n. 16.

Councell at *Lions*) claim as an especiall priviledge, That no Legat ought to come here, but on the Kings desire, *ne quis extra regnum trahatur in causam:* and at the revising of *Magna Charta* by *Edward* the first, the former clause was left out, since when none of the Clergy might go beyond seas but with the Kings leave, as the *o* writs in the Register, and the *p* Acts of Parliament assure us; and what is more, if any were in the Court of *Rome*, the King called them home, not permitting any to go or abide there longer then his pleasure. Yet I do not say these times do not furnish examples of Appeals or recourse thither, or receiving commands from thence; I know the contrary: but it was onely between those, and in such cases, as the King (holding good correspondency with the Pope) and State did either tacitely connive at, as in matters of small moment, or expressly give allowance unto: for if otherwise, no person was so great, but he was forced to gain his pardon for the offence. To which purpose th' example of the \* rich Bishop of *Winchester* may not be unfirly remembered, who being a Cardinall of the Kings blood, was enployed by *Martyn* the 5. as generall against the *Bohemians*, and to that end erected the Crosse 1429. 8. *Hen.* 6. but two years after caused a petition to be exhibited in Parliament, *That he the said Cardinall nor none other should be poursued, vexed, impled, or grieved by the King, his heyres or successors, nor by any other person, for cause of any Provision, or offence, or misprision done by the said Cardinall against any statute of Provisions, or per cause of any exemption, receipt, acceptation, admission or execution of any Bulls Papall to him in any manner made:* Which was granted, and shews that without it he had been lyable to punishment for his accepting and receiving of them. And here it is not unworthy the re-

membring



membring, that this was the first Cardinall England ever saw a Privy Councillor. He having sometimes sought that dignity in Henry the 5<sup>th</sup> time, upon the news, the Archbishop of Cant. gave the King notice of it, in a letter yet extant; which did so affect that Prince, as he was sometimes heard to say, \* *that he had as lieve set his crown beside him, as see him wear a Cardinals hat.* But he being soon after taken away, and the honour conferr'd on this Prelate in June 1426. by Martin the 5. \* at his coming into England, the Lords of his Maties Councell caused him to make a Protestation for his comportment in the future; and the 8<sup>th</sup> of Hen. the 6. it was agreed by the Lords in Parliament, he should be on the Kings part required to attend his Maties Counsell, *sub protestatione tamen subsequente, quod quotiens aliqua, materia, causa, vel negotia ipsum Dominum Regem aut regna seu dominia sua ex parte una, ac sedem Apostolicam ex parte altera concernentia, hujus concilii regis communicanda & tractanda fuerint, idem Cardinalis se ab hujusmodi consilio absintet, & communicationi earundem causarum, materialium, & negotiorum non intersit quovis modo, &c.* and yet his former engagement made to the Councell to be firme and inviolable. Upon which the said Cardinall the 18. of December 8. H. 6. Ann. 1429. after his thanks to the King and Lords, and his admitting the said Protestations *tanquam rationi consonas*, was received for one of the Councell. But I return to that I was treating of.

39. The truth of this barring Appeals is so constantly averr'd by all the ancient monuments of this Nation, as one not finding how to deny it, falls upon another way, <sup>f</sup> that if the right of Appeals were abrogated, it concludes not the See of Rome had no jurisdiction over this Church, except one should be so senselesse as to imagine the Prefect of the Pretorian Court were not subject to th' Emperors auctority, because it was not law-

\* Halle 20.  
Hen. 6.  
The complaint made by the Duke of Gloucester against the said Cardinall, Art. 2.  
\* Rot. Parl.  
8. Hen. 6.  
n. 17.

f Philip 3<sup>rd</sup> of Schism of England pag. 174.

ff. de officio  
 Prefect. i re-  
 tor. leg. unica.  
 vide Cassio-  
 dor. lib. 6.  
 variat. 3.

full to appeal from them, according to the Law in the Digests. To which I answer, that if it be granted (which is very disputable) this Law is to be extended to th' Emperor, yet it proceeded from himself, who might limit his own power: but he is desired to consider, this canon of Appeals did not from any Pope; for the *Africans* did, and the Church of *England* doth maintain it as an inherent right of their own, to give Laws in that particular, and ever had strong contests with the Papacy about it, which held it an honour not to be parted with; and they opposing him in it, must of necessity have held that superintendency he exercised over them not to be *jure divino*, for then no man could have exempted himself from having recourse unto him. In *France* there are severall Courts of Parliament from which no Appeal lies, who receiving that privilege from the King, it cannot be said to be in diminution of his Royalty, because that they have, he gave: but if ever any of them should claim this as of their own right, denying the King to have at any time a power of intermeddling with them, I shall leave the objector to draw what consequence he will from it; for my part I can no other, but that they esteemed themselves very little his subjects.

40. The reader will pardon this digression, which I have the longer stood upon, to give him the more full satisfaction how Appeals were first brought in, and how pursued; I shall now, in what manner the Legat and Archbishop prosecuted theirs: who being \* both before *Lucius* the 2. 1144. the Bishop of *Winchester* was \* dismiss his legatine commission; and the Pope finding with how great difficulty the Ecclesiastick affairs of this Kingdom could be managed by any Legat without the Archbishop of *Canterbury*, thought of a very subtle invention to conserve his own auctority, and not have any crossing with that Prelat, which was to create him and his successors *Legati nati*; by which, such things

\* Wm. Thorn  
 col. 1804, 44.  
 x Iohan. Hagu-  
 lstad. col.  
 273, 61. Ann.  
 1145.

as he did before, and had a face of enterfeering with the Papal plenitude, and were not so easy to devest th' Archbishop of exercising, he might be said to do by a Legatine power: of which it was not long before the Pope made use, as is to be seen in his *1 Decretalls*; where *Alexander* the 3. resolves he could not hear *jure metropolitico* matters Episcopall that came not unto him *per appellationem*, (that is in a legall way) but *jure Legationis* he might such as were brought unto him onely *per querimoniam*: an invention<sup>2</sup> often practis't afterward, and highly advantagious to the Court of *Rome*, as what made Bishops but his Deputies.

41. The<sup>a</sup> *Antiquitates Britannica Eccles.* and from him<sup>b</sup> *Harfsfield*, speak as if this honour were first bestowed on *Theobald*; which it seems to me could not be, till the taking it away from *Winchester* by *Lucius* the 3. after the death of *Innocentius* 2. <sup>c</sup> *Diceto* sayes, *Celestinus* 3. (about some ten years after *Lucius*) bestowed on *Hubert* plenitudinem potestatis in officio Legationis inauditam à seculis. I confesse I do not well understand in what it did consist, that had not been formerly heard of, to whom the Pope had committed<sup>d</sup> *Vices suas in Anglia & Scotia*; but it fully proves that power derived from *Rome* was then looked on as a thing newly crept in. But whosoever did first confer it, the matter is not great: certain it is, by it the Papall auctority was not a little in time increas't, there being none of the Clergy almost to question ought came from *Rome*, the Archbishop, on whom the rest depended, himself operating but as a Delegate from thence.

42. To which purpose it may not unfitly be observed, that when the Papacy did first attempt the exempting some great monasteries from the jurisdiction of their Ordinary, it was<sup>e</sup> *salva primatis reverentia*, or, as *Malm-*

*ved. Ann.* 1190. col. 380. b. 14. So that the Court of *Rome* knew how to turn this, notwithstanding all opposition, to its no small advantage. <sup>e</sup> *Eadmer.* 62, 34. *Malm.* f. 137. a. 56.

<sup>y</sup> *De officio Legati* cap. 1.

<sup>z</sup> *Vide* *Bochell. Decreta Eccles. Gallican.* pag. 918. *Concil. Trident. sess. 5. cap. 1. 2. & multis aliis locis.*

<sup>a</sup> In *Theobaldo* p. 115, 47. edit. 1572. *b* *Seculo* xii. p. 328, 15. <sup>c</sup> *Ann.* 1195. col. 679, 7.

<sup>d</sup> *Ger. Dorobern.* col. 1663, 64.

<sup>e</sup> The Bishop of *Ely* 1191. says *Rich.* the 1. acquired him that honour. *Ger. Dorobern.* col. 1565, 46. and the King himself ex postulates in *Hoveden* with the Bishop of *Hoffia*, that it cost 1500. marks. *Ho-*

bury

bury explains it, *Archiepiscopi tantum nutum in legitimis spectaturus*. But however thus carefully penned not to thwart with th' Archbishop, being brought hither was taken away by *Lanfrank*, not permitted to be made use of, the Abbot finding no other way to regain it but *multorum preces*. Yet afterward the Pope without scruple exempted them not onely from their Dioceſan, but even ſuch as were under th' Archbiſhops noſe, with all pertaining to them, were taken out of his own jurisdiction; and he who at firſt preſerved others rights, had thoſe houſes now at an *g* eaſy rate removed from his own. A fact of infinite advantage to the Papacy, by which it had perſons of learning in all parts, who depending wholly on it, defended what was done to be by one had a power of doing it; and he who at firſt did ſolely *h* agere *vices Apoſtolicas in Anglia*, was *i* under no Legat, permitted no Bul from *Rome* to be made uſe of in *England*, but by his approbation, was ſo far now from taking them away from the bearers, as *k* private Clerks by deputation from thence did ſit his ſuperiors in determining differences between him, and others who by ſtrength were taken from his jurisdiction.

43. After which, Popes having gained an entrance, found means to reduce the grant of *Legatus natus* to no more then ſtood with their own liking, by inventing a new ſort of Legat ſtyled *Legatus à latere* (<sup>1</sup>by reaſon of his near dependance on the Popes perſon) who employed in matters of concernment, at his being here the power of the former ſlept: <sup>m</sup> which diſtinction of Legats ſeems to me to have had its birth after 1180. firſt applied by any of our writers to *n* *Iohannes Anagninus Cardinalis* 1189. by *Hoveden*; which ſtyle yet <sup>o</sup> others who then lived do not give him. Of this Legat it is that *p* *Henry Chicheley* in a letter, yet extant under his own hand, wrote to *Henry* the 5. that *Be inſpection of Lawes*

f Eadmer.  
ibid. lin. 37.

g Vide Petri  
bleſenſ. E-  
piſt. 68.

h Eadmer.  
pag. 48, 44.  
i G. Dorob.  
col. 1663, 55.

k Vide bul.  
Iohan. 22.  
apud Gu-  
lielm. Thorn,  
col. 2041, 1.

l De Officio  
Legati cap. 9.  
Gloſſ. ad ver-  
bum Com-  
miſſam.  
m Vide Ger.  
Dorobern.  
Ann. 1188.  
col. 1532, 55.  
o 1533, 8.  
n Hoveden,  
Ann. 1189.  
fol. 377. a. 10.  
o Diceto col.  
649, 42.

Ger. Dorob. p *Habetur in vita Henrici Chicheley ab Arthurō Duck edita. 1617.*

and

### Chap.III. of the Church of England. 41

and Chronicles was there never no Legat à latere sent in to no lond, and specially in to your reingme of England, withoute great and notable cause. And thei when thei came, after thei had done her legacie abiden but litul wyle, not over a yer, and summe a quarter or ij. monthes as the nedes requeryd: And yet over that he was trefyd with or he cam in to the lond, whon he schold have exercise of his power and how myche schold bee put in execution: An aventure after hee had bee reserveyd hee whold have used it to largely to greet oppresion of your peple: as indeed if he stayed long, he sometimes gained the censure of being *occultus inimicus regni*; but this was not till the Popes had brought th' Archbishops much under, by laying a necessity on them of receiving the Pall from Rome, and at the taking of it of making profession *de fidelitate & canonica obedientia*, that is, had obliged them by Oath to defend *regalia Sancti Petri*. Of which, because I find th' introducing (not much touched by our writers) a great means to advance this forraign power, it will not be amisse to say somewhat; and first of the Pall.

q M. Paris  
Ann. 1240.  
pag. 524. 46.

44. The *Pallium* (from whence our English word *Pall*) was a garment with which the Professors of Arts, as *Grammar*, *Rhetorick*, *Musick*, might cloath themselves (as it seems to me by *Terullian* they did); yet was held most proper for such as professed Philosophy: And therefore when a *begging fellow* came to a noble Roman *palliatuſ* & *crinituſ*, being asked what he was, the man half angry replied he was a Philosopher, & *mirari cur quarendum putasset quod videret*: to which the Gentleman returned, *Barbam & Pallium, Philosophum nondum video*. From whence I gather, it was for the most peculiar to them. So *Eusebius* shewes on *Heracles*, *quid opus dicitur quia taking the habit of a Philosopher*, notwithstanding his being a Christian, retained it: and *lib. 8. cap. 21.* at the martyrdom of *Porphyrus* a discipule of *Pamphilus*, he describes that *quid opus dicitur* to be

r De Pallio  
cap. 6.

f Aul. Gellius  
Noſt. Attic.  
lib. 9. cap. 2.

z Euseb. Hist.  
lib. 6. cap. 13.  
Græc. k.

a short cloak or Pall covering the shoulders.

45. But it seems the primitive Christians in wearing of it did attribute some Sanctity to the garment; for *a grande pallii beneficium est* (saith *Tertullian*) *sub cujus recogitatu impii mores vel erubescunt*: whereupon the *x* Councell of *Gangra*, not an 100. years after, pronounced him *Anathema* used the *Pallium quasi per hoc habere se justitiam credens*, &c. Now from the danger of superstition of the one side, and the being especially worne by Philosophers of the other, I am apt to think it became in the end proper onely to some Bishops, who might challenge it as learned Philosophers, yet not at all likely to attribute more to the Robe then reasonable; and in time, either by collation of Emperors, or otherwise, appropriated to some particular Churches, who having that mark, were after the seats of Archbishops for the most part. For though *y Alcuinus* be of opinion the Pall is nothing but a distinction between an Archbishop and his suffraganes: yet, under favour, I conceive that must be taken of th' acception of the word in the time helived; not as used in *St. Gregories* dayes, who gives *z Augustine* at the bestowing the Pall upon him the title of Archbishop no more then he doth *a Syagrius* Bishop of *Austun* in *Burgundy*; which Town, notwithstanding that guift by *St. Gregory*, was never reputed to have other then an Episcopall chair, and suffragan to the Archbishop of *Lions* to this day. So that certainly, at first, all that had the Pall were not *eo nomine* Archbishops, to whom it became especially proper after the Emperor relinquish't it to the Popes disposing, who at first no question had a good part in the conferring of it himself.

46. The deed is yet extant by which *Valentinian* bestowed it on the Church of *Ravenna*, about the year 430. I know *b* some, who find not how to deny it, hold this an honourable vestment, such as Emperors themselves

*n* Tertul. de  
Pallio cap. 6.

*x* concil. Gangrense circa  
Ann. 350.  
can. 12.

*y* Pallium nihil aliud est nisi discretio inter Archiepiscopum & ejus suffraganeos. *Alcuinus* de Divinis Officiis cap. quid significant vestimenta.  
*z* Gregor. lib. 12. Epist. 15.  
*a* Greg. lib. 7. Epist. 112.

*b* Hieron. Rubeus Hist. Ravennae. Italia Sacra, 10. 2. col. 331.  
e. 332.



selves wore; which opinion <sup>c</sup> *Baronius* justly confutes, and rather thinks it forged: yet he, <sup>d</sup> citing out of <sup>e</sup> *Liberatus*, that *Anthemius* expell'd the Church of Constantinople, *Pallium quod habuit, imperatoribus reddidit, & discessit*, gives no gloss how he could return to the Emperor his Pall and depart, if he had nothing to do with it: and it is manifest, in *Gregory* the greats dayes, that Church did not onely prescribe for the use of the Pall, but for doing it contrary to the will and opinion of that Father. And the same Doctor elsewhere <sup>f</sup> saith, he had dealt *apud piissimos dominos*, the Emperors, to send him *Anastasius*, *concesso usu Pallii*: and afterward being desired by *Brunichilda* to grant it to *Syagrius*, (of whom before) he shews his readinesse, & *propter quod & serenissimi Domini Imperatoris prona voluntas est, & concedi hac omnino desiderat*. So that certainly, at the beginning, if Princes did not bestow it, yet it was not done against their wills; which after-times did in *Europe* solely appropriate to the Pope: who yet gave it not against their liking; as <sup>\*</sup> *Lucius* the 2. sending it to the Bishop of *Winchester*, who yet never made use of it, teacheth us.

47. But what this Pall imported, or what the receiver had of advantage by it, writers I think do not alwayes agree. <sup>h</sup> *Isidorus Pelusioza*, who writ about the year 430, is of opinion, the Bishop, as a type of *Christ*, wears that cloak of wool, to shew himself imitator of the great shepherd that will bear the strayed sheep on his shoulders. <sup>i</sup> *St. Gregory* sayes, it signifies humility, justice, &c. I have shew'd before *Alcuinus* his opinion of it. But what soever signification it was at first thought to carry, certainly, the necessity of fetching it from *Rome* was not so urgent, as in these later the Papall interest made it esteemed. We do not read that ever *Laurentius* or *Mellitus* received thence the Pall; yet no man doubts of their being as lawfull Archbishops as *Augustine* was. <sup>k</sup> *Giraldus Cambrensis* and *Hoveden* agree, the

<sup>c</sup> 10. 5. Ann. 432. n. 93. d Baron. 10. 7. Ann. 536. n. 17. e Brevic. Liberat. cap. 21. 10. 2. concil.

<sup>f</sup> Lib. 1. Epist. 27.

<sup>g</sup> Greg. lib. 6. Epist. 5. Indic. 1.

<sup>\*</sup> Dicet. Ann. 1142. col. 508.

<sup>h</sup> Lib. 1. Epist. 136. apud Baron. 10. 2. Ann. 216. n. 15. & 10. 7. Ann. 553. n. 7. i Lib. 7. Epist. 129. Indic. 2.

<sup>k</sup> Itin. Cambr. lib. 2. cap. 1. Hoved. Ann. 1199. fol. 453.



Bishops of St. Davids in Wales did use the Pall, till *Samson*, about the time of the Saxons, flying from an infection, carryed it with him; yet neither of them report him to have fetch't it from Rome: nor after the wanting it, did the rest of the Bishops there either refuse his consecration, deny obedience to the See, or make profession to any other, before *Henry* the first induced them by force. But to come to the Saxons: after *Paulinus*, there are five in the Catalogue of *York* expressly <sup>1</sup>said to have wanted it, (amongst which *Wilfred*, that <sup>2</sup>ruled all the North as his Bishoprick) yet are reputed both Archbishops and Saints; and of others in that series it will not be easy to prove they ever used it. *Albertus* the 8. Bishop about 767. had it not till the seventh year <sup>3</sup>accepti *Episcopatus*: nor <sup>4</sup>*Adilbaldus* or *Ethelbaldus* the 14. Anno 895. till the fourth year *postquam acceperat Episcopatum*. An undoubted argument that Canon of *Pelagius*, recorded both by <sup>5</sup>*P Ivo* and <sup>6</sup>*Gratian*, that no Metropolitan should defer above three months sending for it to Rome, was never received in this Church. <sup>7</sup>*Gregory* the great sayes, it ought not to be given, *nisi fortiter postulanti*: and the same <sup>8</sup>Father with a Councell at Rome Anno 595. decreed, *pro pallio omnino aliquid dare prohibeo*. So that in those times the one side perhaps did not much urge the taking of it, nor the other greatly seek after a thing brought small advantage, and was so far to be fetch't.

48. But after the Court of Rome began to raise to it self a revenue from other Churches, this *Pallium*, that was no other then a distinctive ornament, not to be payed for, began to be set at so immense a rate, that <sup>9</sup>*Cannus* going to Rome 1031. did mediate with *John* the 19. that it might be more easy to his prelates: in which though he had a favourable answer, yet in *Hen.* the 1. his time it was so much, th' Archbishop of *York* could not pay the money, without an <sup>10</sup>heavy debt. <sup>11</sup>*Mat. Paris*

doth

i Thom.  
Stubbs in  
vii. Archiep-  
iscop. Ebor. col.  
1697. 2.  
m Bed. lib. 5.  
cap. 20. vide  
lib. 4. cap. 12.  
n Sim. Du-  
nelm. Epist.  
ad Hugonem  
col. 78, 49. &  
T. Stubbs, col.  
1697, 15.  
o Ibid. col. 79,  
25. & col.  
1698, 57.  
p Part. 5. can.  
136.  
q Dist. 100.  
cap. 1.  
r Lib. 7. Epist.  
5.  
s Lib. 4. Epist.  
44. Ind. 13.

t Florent.  
Wigorn. pag.  
395. & In-  
gulph. fol.  
508. a. 53.  
Malms. f. 41.  
b. 39.  
u Gravier  
mutualam,  
Eadmer. pag.  
93, 30.  
x Mat. Paris  
pag. 274, 4.

doth intimate as if *Walser Gray*, translated from Worcester to that See 1215, had not his Pall at lesse then ten thousand pounds: *accepto pallio* (saith he) *Episcopus memoratus rediit in Angliam, obligatus in curia Romana de decem millibus librarum estirlingorum*; which was about the silver of 30000<sup>l</sup>. now, Coin being then after the rate of 20<sup>d</sup>. the ounce. But after times, according to the Bishop of *Landasse*, reduced it to the certainty, that each Bishop payed 5000. duckets for it, every one of the value of 4<sup>s</sup>. 6<sup>d</sup>. our money: which yet I do not see how to make agree with the *Antiquit. Brit. Ecclesie*, that speakes onely of 900. aureos ducatos payed by *Cranmer*.

y In catalog.  
Episc. in fine  
Archiepisc.  
tam Cant.  
quam Ebor.  
z Antiq. Bri-  
tan. Lond.  
pag. 382. 32.  
Hannovie  
pag. 327, 48.

49. But to omit the gain came by the garment; that certainly was a means of drawing a great obligation from all Archbishops to the Papacy: for about 1002. a new oath *de fidelitate & canonica obedientia* was devised, to be tender'd every Archbishop at the reception of it. For the more full understanding of which, we are to know, *VWilliam* the first, after he had settled the Kingdom in quiet, wholly posselt of it, would not in any kind acknowledge a farther obedience to *Rome* then his predecessors had; but maintained the rights of the Kingdom in every thing, against the liking of that Court in many particulars, barring all men for taking any for Pope, but whom he designed; insomuch as after *Gregory* the 7. 1084. till 1095. about 11. years, there was no Pope acknowledged in *England*; denying any to receive letters from thence, but acquainting him with them, and many more, of which elsewhere; all which being exercised by him, were never questioned during his time, nor while *Lanfrank* lived after him, (though he hath been ever reputed an holy man.) But *Anselme* succeeding in his seat, great contentions arose between him and *VWilliam* the second: The King with the Nobility pressing him, as the usage of the Realme,

a Vide Baron.  
10. 11. Ann.  
1071. n. 21,  
25. & inter  
Lanfranci  
Epist. 7. pag.  
304.  
b Eadmer.  
pag. 25, 40.  
Vide Lanfran-  
ci Epist. 50.  
pag. 329. col.  
1. §. Non  
laudo.

c Eadmer.  
pag. 38. p. 38.  
per tot.

d *Ibid.* p. 40, 5.  
32.

not to depend on *Rome* as of necessity: he, on the other side, <sup>d</sup> declaring all such customes to be contrary to Divinity, right, &c. chose rather to live an exile all that Kings time, then any way submit to those customes, had been practis'd, never disputed or questioned by any Archbishop here before.

e Lanfranc.  
*Epist.* 8. pag.  
305. col. 1.

50. But, that Prince being soon after taken away, and *Paschalis* the 2. succeeding almost at the same time, (considering, as it seems, by what weak bands forraign Bishops were tyed to the Papacy, how easy it was for them to fall from it; that <sup>e</sup> *Gregory* the 7<sup>th</sup>. was not satisfied even with *Lanfranks* carriage in *Episcopali honore positus*, who restrained his obedience to *canonum precepta*; that *Anselme* alone had opposed the whole body of the Kingdome; that every Prelat might be neither of his temper or opinions,) framed an oath, the effect of which you may see in *Diceto* <sup>f</sup> *Ann.* 1191.

f col. 663, 6.

\* Note, where you read in the lives of the Abbots p. 140, 22. *regalem*, and in his Hist. p. 414, 22. *regalis*, both should be *regalia*, for so we find it at the end of the Councell of Vienna, 10. 4. *concil. gen. Romæ* 1608. & 1612. agreeing with an old Copy of that oath I

have seen in th' Exchequer, which the Decretalls *de jure jurando* cap. 4. read thus: *Papatum Romane Ecclesie & regulas Sanctorum Patrum adjutor ero*, &c. but *Ordericus Raynaldus* 10. 13. *Ann.* 1233. n. 65. citing out of the records in the Vatican the oath St. Edmund Archbishop of *Canterbury* took, reads it rightly *regalia*. g *Baron.* 10. 12. *Ann.* 1102. n. 6, 7, 8. h *De electione & electi potestate* cap. 4. i *Eadmer.* p. 34, 33. k *Eadmer.* p. 113, 43.

prius

# Chap. III. of the Church of England. 47

prius de fidelitate & canonica obedientia professione. Deinde pro reverentia beati Petri ab omnibus deosculatur, &c. Which profession being never met with as made by any Archbishop of Cant. before, but frequently after by such as were his near successors, as <sup>l</sup> *Tho. Becket*, *Baldwine*, &c. we must conclude him to have been the first from whom it hath ever been required. I know: *Belarmine* interprets a Bishops returning out of schisme 602. and voluntarily by oath promising to live in communion with the Pope, to be a swearing of obedience to that chair: but certain there is a difference between obeying and living in communion; (of which see *cap. 7. n. 4.*) between an oath inforced, and one voluntarily taken. After this, as wayes to augment the Court, many priviledges were annexed to it; <sup>m</sup> as that none before his receiving that ornament might *convocate coun-cells*, *make Chrisme*, *dedicate Churches*, *ordain Clerks*, *consecrate Bishops*, that being <sup>n</sup> *Pontificalis officii plenitudo*, till he had it, none to be styled an Archbishop; things added after mens holding a necessity of seeking it, did so much contribute to the Papall advantage, both in point of honour and profit. For it is manifest, *Lanfrank*, *Anselme* and *Raulf* did dedicate <sup>o</sup> Churches, & consecrate Bishops and Abbots, were called <sup>q</sup> Archbishops, whilst they wanted it.

§ 1. Now theice broken, this Oath (at first required onely of Archbishops when they took the Pall) was by <sup>r</sup> *Gregory* the 9, *mutatis mutandis*, imposed on Abbots and Bishops. About 1235. came into England <sup>s</sup> *occulta clausa sub bulla*, the <sup>t</sup> like to which had not been seen, was profered to *John* 23. Abbot of *St. Albans* unacquainted with it, when he could not <sup>u</sup> *ab illa obligatione resili-re*; who is therefore noted, that <sup>x</sup> *primo invitus & dolens Romanorum jugum subiit servitutis*, and that <sup>y</sup> *pre omnibus Romanorum oppressonibus novis & inauditis cæ-*

pag. 410, 39. u *Vit. Abbas*. pag. 140, 39. x *Ibid.* pag. 141, 49. y *Ibid.* pag. 142, 1.

*l* *Diceto col.*  
534, 8. *Ger.*  
*Dorober. col.*  
1307. 2.  
*l* *De Rom.*  
*Pont. lib. 3.*  
*cap. 11. §. In-*  
*ramentum.*

*m* *De Elect. &*  
*Elect. possit.*  
*cap. 28. §. 2.*  
*verbo prate-*  
*rea.*  
*n* *De auctor.*  
*& usu Pallii*  
*cap. 3. Vid.*  
*cancil. Late-*  
*ranense sub In-*  
*nocentio 3<sup>o</sup>.*  
*cap. 3.*  
*o* *Eadmer.*  
*pag. 22, 19.*  
*p* *Ibid.* pag. 6,  
46. pag. 23, 31.  
*pag. 111, 6.*  
*18, 32.*  
*q* *Ibid.* pag.  
23, 42. p. 111,  
32. *& passim*  
*apud Histori-*  
*cos.*  
*r* *De iureju-*  
*rando cap. 4.*  
*s* *Mat. Paris*  
*Vit. Abbas.*  
*pag. 140, 31.*  
*t* *Mat. Paris*  
*Hist. major.*

2 Mat. Par.  
Vit. Abbat.  
pag. 133, 23.  
pag. 141, 52,  
56.

2. Sefs. 25.  
cap. 2.

*pit molestari*, &c. The thing I find of greatest exception is, the obligation injoyning them to visit *Rome*, which being in pursuance of the 26. chapter of the Council of *Lateran*, held onely 20. years before, is censured 2 *Dammum*, *gravamen*, *præjudicium*, *injuria*, *jactura*, as that which alter'd the nature of the Church, which had been from the foundation *libera & ingenua*, and was thus brought to serve the ends of the Court of *Rome*. Truly after this I cannot see how there can be said to have been a free Papall Council in *Europe*, when such as it consists of (being, for the most, Bishops and Abbots) come with so high an obligation as an oath to defend the usages of *Rome*, under the title of *Regalia Sancti Petri*. In pursuance of which the .∴ Council of *Trent* did expressly charge all Patriarchs, Archbishops, Bishops, and other, who in future should meet in Provinciall Synods, that *veram obedientiam summo Romano Pontifici spondeant, & profiteantur*. I wish it had exprest what that had been.

a Vita Abbat.  
St. Albani  
MS. in Io-  
hanne 3. Ab-  
bat 25.

52. To return to that I was treating of. This visiting the *Roman* Court, however much prest on this Monastery of *St. Albans*, yet was ever excused till 1290. *Iohn* the 3. and 25. Abbot was forced to go thither for his confirmation: but because the book is not printed, I will give you my<sup>a</sup> Auctors own words. *Iohannes de Berkamsted, vir religiosus & honesta conversationis, hic in crastino conceptionis beatae & gloriosa virginis Mariæ, scilicet quinto idus Decembris, anno Domini MCC. nonagesimo, per viam compromissi de gremio Ecclesiæ concorditer electus, ad curiam Romanam primus omnium abbatum hujus Ecclesiæ, pro confirmatione electionis sue obtinenda, personaliter accessit, ibique confirmatus est à summo Pontifice Nicholao; & à venerabili L. Ostiensi Episcopo & Cardinali apud urbem veterem munus accepit benedictionis; & sic data maxima pecunia Papa, & Cardinalibus, & aliis de curia, quam de mercatoribus Papa duris*

## Chap. III. of the Church of England. 49

*duris conditionibus ex mutuo recepit, ab illa insatiabili curia evasit, expletisque negotiis domum redire festinavit, &c.* By which we may see who of this house went on this occasion first thither, and why it was so earnestly urged from thence. As for the Monastery of *St. Augustins*, by reason of the often contentions with th' Archbishop, the Monks there were much more prone to yield obedience to *Rome* (who maintained them for the most against him) then these other were: yet the first of them I find to have <sup>b</sup> took this oath was *Roger the 2.* elected Abbot 1253. For though the <sup>c</sup> benediction of *Robertus de Bello* 1224. were at *Rome*, where he gained th' Abbacy; yet there being no mention of any oath presented to him then, we must think it came in afterwards. But for the fuller understanding how this visiting the *Roman Church* came in, the Reader will give me leave a little to digresse.

53. Christians in all ages have esteemed it a point of singular piety and devotion, for any Ghostly Father or Doctor to have a care of those to whom they have the relation of being a Spirituall Superior, either by planting Christian Religion amongst them, reducing them out of error, or otherwise some engagement on them. Saint *Paul* sent for the Elders of *Ephesus* to come unto him at *Miletus*, from whom they received those wholesome instructions we read in the <sup>d</sup> Acts of the Apostles; and according to this example there are divers exhortations in the writings and Epistles of the Fathers. Before the year 517. a <sup>e</sup> Councell held at *Tarragona* in *Spain* did ordain, that every Bishop, *impletis duobus mensibus, se Metropolitani sui repræsentet aspectibus, ut ab illo monitis Ecclesiasticis instructus, plenius quid observare debeat recognoscat: quod si forte hoc implere neglexerit, in Synodo increpatus à fratribus corrigatur.* Agreeing to which, <sup>f</sup> *Iustinian* in the year 541. did establish by Law, that for the better observance of th' Ec-

<sup>b</sup> Wmms  
Thorn, col.  
1899, 22.  
<sup>c</sup> Ibid. col.  
1890, 3.

<sup>d</sup> Acts xxx.  
17, to the end.

<sup>e</sup> Cap. 5. tom. 1.  
Concil.

<sup>f</sup> Novel. 123.  
cap. 10.



g Baron. 10.9.  
Ann. 743.  
n. 19.

\* Capit. Car.  
c. lib. vii.  
cap. 108, 109.

h Concil.  
Spelm. pag.  
237, 238.

i Confer Con-  
cil. Spelm. p.  
238, §. ut E-  
piscopi, &  
p. 251, cap. 25.

k Eadmer.  
pag. 113, 2.

cleſiaſtick rules, every *Archbiſhop*, *Patriarch*, and *Metropolitan*, *Sanctiſſimos Episcopos ſub ſe conſtitutos in eadem Provincia ſemel aut ſecundo per ſingulos annos ad ſe convocare*. And Pope & *Zachary* Ann. 743. in a Council at *Rome*, *Omnes Episcopi qui hujus Apoſtolice ſedis ordinationi ſubjacebunt, qui propinqui ſunt, annue idibus menſis Maii ſanctorum Principis Apoſtolorum Petri & Pauli liminibus preſententur, omni occaſione ſepoſita, &c.* \* After which *Charls* the Great did by law ordain, *ut unusquisque preſbyter per ſingulos annos Episcopo ſuo rationem miniſterii ſui reddat, tam de fide Catholica, quam de Baptiſmo, atque de omni ordine miniſterii ſui*.

54. About which time *Boniſace* an Engliſhman, the Popes Legat in *Germany*, and Archbiſhop of *Mentz*, in a Council held in *Germany* (the decrees whereof he ſent to *Cutbert* then in the ſeat of *Canterbury*)<sup>h</sup> declaring how great the care of the Metropolitan ought to be of thoſe under him, ſhews how every Preſbyter ſhould once a year in Lent give an account to his Biſhop, who was to inſtruct him, and with ſuch things as he could not correct himſelf, to acquaint th' Archbiſhop in a Synod; *Vt ſi Sacerdotes vel plebes à lege dei deviaſſe viderim, & corrigere non potuerim, fideliter ſemper ſedi Apoſtolice & vicario Sancti Petri ad emendandum indicaverim: Sic enim, ni fallor, omnes Episcopi debent Metropolitano, & ipſe Romano Pontifici, ſiquid de corrigendis populis apud eos impoſſibile eſt, notum facere, & ſic alieni ſient à ſanguine animarum perditarum*. *Cutbert*, according to this adviſe, doth appoint the proceedings of the Biſhop to be to the Archbiſhop, in the ſame words he had received it from *Boniſace*; but<sup>i</sup> paſſeth no farther to the Pope: an undoubted argument, it was not then uſual in *England*. I have touched before, the Conqueror did ſuffer no other correſpondency with *Rome* then what he liked; *Pafchalis* the 2. quarrell'd with *Hen.* the<sup>k</sup> firſt, that *Nullus inde clamor*: to prevent which, this



### Chap. III. of the Church of England.

51

this visiting *Rome* was at the very first inserted into the oath of an Archbishop, who being head of the Province, all the rest might have the same dependance.

55. But because this did not reach such houses and persons as were exempt from the jurisdiction of th' Ordinary, acknowledging no superior but the Pope; the Councell of *Lateran* under *Innocentius* 3. 1215.<sup>1</sup> provided, such as pertained immediately to his rule should present themselves before him for confirmation, *si commode potest fieri*; which was here misliked. But this Councell speaking not home, in that it tolerated the sending <sup>m</sup> *personas idoneas, per quas diligens inquisitio super electionis processu & electis possit haberi, &c.* to make th' excuse, (and being it self (as I shall shew hereafter) not much regarded till *Gregory* the 9, nephew to *Innocentius*, inserted it for the most into the Decretalls, and framed, as I have said, an oath too, for the stricter obligation unto him;) it was again urged by *Alexander* the 4. <sup>n</sup> *ut quilibet qui in Abbatem exemptum extunc eligeretur, Romanam curiam adiret confirmandus & benedicendus*: which the same author styles <sup>o</sup> *Statutum enorme and cruentissimum*. And whereas some, finding the burthen of running to *Rome*, had obtained as a priviledge from thence, *Put non teneantur sedem Apostolicam usque ad certa tempora visitare, contra formam præstiti juramenti, ex quo illud evenit inconveniens, quod Apostolicæ sedis dignitas rarius visitatur, in derogationem reverentia quæ ab omnibus debetur eidem, &c.* the same Pope therefore revokes all manner of such concessions to whomsoever formerly granted. In which year, or perhaps 1258, *Simon* (elected Abbot of *St. Edmundsbury*) confirmed by *Alexander* the 4. the 22 October, is <sup>\*</sup> noted to have been *primus exemptorum in Anglia ad curiam Romanam pro sua confirmatione vocatus*.

110m 4. Concil.  
gen. Rom.

m cap. 26.  
Concil. La-  
teran.

n Mat. Paris  
Ann. 1257.  
pag. 951. 41,  
44.  
o pag. 956, 7.

p Reynald.  
Annal. Eccles.  
10. 14. Ann.  
1257. n. 50.

\* Monasticon  
Anglicanum  
pag. 296. col. 1.

56. Yet the Court of *Rome*, however thus earnest at first, (either perceiving it ill relisht abroad, and that

H 2

forcing

¶ *Vita Abbat.*  
*MS.*

¶ *Mat. Paris*  
*pag. 972, 51.*

¶ *W<sup>m</sup> Thorn,*  
*col. 2185. &*  
*sequent. col.*  
*2153, 46.*

¶ *card. Offat.*  
*Epist. 296.*  
*Rom. 22 De-*  
*cembr. 1601.*

forcing sodain mutations in Religion not to be of so good consequence) in her prosecution was more moderate. ¶ On *Roger* the xxiiii Abbot of *St. Albons* 1263. I do not find at all prest; his successor *John* the xxv, I have shew'd, was the first went thither for it. So likewise *Philip* Abbot of *Westminster* 1258. obtained the favour to stay at home, and *Richard Ware* his successor fetcht his consecration first thence. But after the Court was fully in possession of what turned so much to her advantage, an excuse was *hardlier* admitted; and if any did obtain the favour to stay at home, he payed a good round summe for it. It is remembred, *Michael* Abbot of *St. Augustins*, elected 1375, did give *Pape & Cardinalibus ut possit benedici in Anglia* 183<sup>1</sup>. 02<sup>s</sup>. 06<sup>d</sup>. and accordingly some other. The Papacy having by these wayes abared the power of th' Archbishop, found it easy, his lett removed, to bring the rest of the Clergy wholly to depend upon it, by raising whom it liked to oppose that Prelat, who were bound to maintain the Papall auctority which supported them in what they did, and wringing the Investitures (so far as lay in their power) out of the hands of Princes, to interest the Pope and his party in severall particulars, under the notion of being matters Ecclesiasticall; by which he brought the elections of Bishops solely to the Convent, excluding both King and others, and became as Patron of most Spirituall promotions in *England*: which <sup>¶</sup> forme he yet laboured in the end to break too, by reducing all to his own gift. For the understanding of which, as not impertinent to that I treat of, it will be necessary to look a little higher.

57. When any place became destitute of a Bishop, it is certain, in the primitive Church, the Lay as well as the Clergy did concur in nominating who were to succeed in the charge; that he who was to have th' inspection of all, might not be brought into it with the repug-

repugnancy of any. And this custome was so generall, as \* St. Cyprian and 36. Bishops more, meeting in Councell about the year 255. writing to certain in Spain, spake as if it did descend *de divina auctoritate*. It is not to be doubted but this court gave sometime opportunity to ambitious and contentious spirits (as \* St. Augustine calls them) of troubling the Churches peace: and therefore 7 the Councell of *Laodicea* before the year 360. did appoint the elections to Priesthood not to be \* by multitudes; and divers holy Bishops desiring peace might continue after them in their flock, were carefull or ever they dyed to know the person was to succeed in their chair. *Severus* Bishop of \* *Melain Africa* had exprest to the Clergy onely, whom he thought fit to have been admitted after him to his Episcopacy. This was likely to have bred some stir, in respect the people were not acquainted with it; had not 7 *St. Augustine* by his pains and wisdom allayed the dispute: to avoid which, that good man nominated one *Eradius* for his successor, whom the people with loud acclamations approved.

58. This concurrence or joyning of the Lay with the Clergy (that *qui prafuturus est omnibus ab omnibus eligatur*, as <sup>a</sup> *Leo* speaks) in choice of Bishops, I do no way question to have continued in the Church till after *Charles* the Great, in whose Capitulars we find, <sup>b</sup> *Episcopi per electionem cleri & populi eligantur*; and to have been sent hither by *Gregory* the Great, who in <sup>c</sup> his Epistles makes often mention of it, as we do find <sup>d</sup> steps of it in our own Historians. Yet certainly, however there might be some formalities of the people, the chief of elections here ever depended on the Prince; as may be gathered by that Speech of *Wolstan* to the Confessors tombe, \* that he had compell'd him to take the pastorall staffe. And *Edward* the 3. wrote to *Clement*

<sup>u</sup> *Cypr. Epist.*  
68. n. 4. edit.  
*Pamelii.*

<sup>x</sup> *Epist.* 110.

<sup>y</sup> *Cap.* 13.

\* *turbis.* &  
*apud Gratianum, Dist.* 63.  
*cap.* 6.

\* *Milevis.*

<sup>z</sup> *August.*  
*Epist.* 110.

<sup>a</sup> *Leo Epist.*  
89. *cap.* 5.

<sup>b</sup> *caroli Magni capit. lib.*  
1. *cap.* 84.  
<sup>c</sup> *Lib.* 2. *Epist.*  
26. *Ind.* 10.  
*Epist.* 22, 26.  
*Ind.* 11. &  
*alibi.*

<sup>d</sup> *Vide continuat. Flor.*  
*Wigorn.*  
*Ann.* 1128.  
*p.* 506. *Ann.*

1139. *pag.* 532. <sup>e</sup> *Ailred de miraculis Edwardi, col.* 406. 37.

f. Epist. Edwardi 3. apud Walsingham. pag. 151. 42. Ann. 1343.

g Rot. Parl. 50. Ed. 3. n. 94.

h Ibid. n. 111.

i Additament. Mat. Paris MS. in Bibliotheca Cotton. fol. 135, a. cui initium Dicturus, &c. of which hereafter. k A willielmo Lanfrancus electus est. Malms. fol. 116, b. 38. Rex constituit

Lanfrancum Archiepiscopum Cant. Florent. Wigor p. 436. Ann. 1070. Sim. Dunelm. col. 202, 6. l Eadmer. p. 6, 41. m Vide ibid. p. 16, 48. p. 17, 18.

the 6. f Cathedrales ---- Ecclesias progenitores nostri dum singulis vacationibus earundem personis idoneis jure suo regio libere conferebant, & postmodum, ad rogatum & ad instantiam dictæ sedis, sub certis modis & conditionibus concesserunt, quod electiones fierent in dictis Ecclesiis per capitula earundem, &c. Solikewise in the Parliament the 50. Ed. 3. the Commons shew, the King and great men were formerly in peaceable possession of giving preferments in holy Church. But I will give the words themselves, because I will not erre in the Translation. g Le Roy & les grandes --- feurent en paisible possession de doner les Evsches & les benefices de saint Esglise, come le fest le Roy St. Edward, qe dona l' Evsche de Worcestre a saint Wollton; & puis par devotion des Roys fust, & par la Courte de Rome confirme, qe les Cathedralx Esglises averoient frank election de leur Prelatz, solonc la ley de Dieu & de saint Esglise, ent ordeigne perpetuellement a durer, &c. and a little hafter, Les Roys d' Engleterre soleient doner Evschez & autres grantz dignites trestouz, come il fait aujourd'ui Esglises parochiels, & le Pape ne se medlast de doner nul benefice deinz le Royalme tanqez deinz brief temps passe, &c.

59. And this to have been likewise the custome in France, the complaint of the French Ambassador to Innocentius 4<sup>th</sup> assures us. i Non est multum temporis (saith he) quod Reges Francorum conferebant omnes Episcopatus in camera sua, &c. and our writers do wholly look upon the placing Lanfrank in Canterbury as <sup>k</sup> the Kings act, though it were not <sup>l</sup> without<sup>h</sup> advise of Alexander the 2. Neither did <sup>m</sup> Anselme ever make scruple of refusing the Archbishoprick, because he was not chosen by the Monks of Canterbury: and in that letter of them to Paschalis the 2. 1114. though they write Raulf in presentia gloriosi regis Henrici electus

à nobis

### Chap. III. of the Church of England. 55

*à nobis & clero & populo*; yet whoſoever will note the ſeries of that election, cannot ſee it to have been other then the Kings act; inſomuch as our writers uſe often no other phraſe then the King gave ſuch preferences, &c. And whiſt things ſtood thus, there was never any interpoſing from *Rome*, no queſtion who was lawfully choſen: the Popes therefore did labour to draw this from the Princes meddling with, as much as was poſſible. Some eſſay might be 1108. at the ſettling Inveſtitures, for then *Anſelme* P writ to *Paschalis*; *Rex ipſe in perſonis eligendis nullatenus propria utitur voluntate, ſed religioſorum ſe penitus committit conſilio*. But this, as the practice proved afterwards, was no more but that he would take the adviſe of his Biſhops, or other of the Clergy: for, as *q Diceto* well obſerves, our King did in ſuch ſort follow the Eccleſiaſtick Canons, as they had a care to conſerve their own rights. The fitteſt way therefore for the Pope to get in was, if there ſhould happen any diſſenſions amongſt themſelves, that he, as a moderator, a judge, or an Arbitrator, might ſtep in.

60. About the Conqueſt, an opportunity was offer'd on the contentions between the two Archbiſhops for primacy; in which *Canterbury* ſtood on the bulls (true or falſe) of former Popes, that had as a great Patriarch made honourable mention of them. When they were both 1071. ſ with *Alexander* the 2. by his adviſe it was refer'd to a determination in *England*; and accordingly 1072. *Wm.* the firſt with his Biſhops made ſome ſettlement, which by them of *York* was ever ſtumbled at, pretending the King's out of reaſon of State ſided with *Canterbury*. But this brake into no publick conteſt till 1116. *Thurſtan* elected to *York*, endeavored at *Rome* to divert the making any profeſſion of ſubjection to *Cant.* but failing in th' attempt (that Court not liking to fall into a conteſt it was not probable to carry) reſigned his Archbiſhoprick, *Spondens Regi & Archiepiſcopo, ſe dum viveret*.

n *Ibid.* p. 109,  
40. &c.  
o *Hunt lib.* 7.  
fol. 219, a. 1.

p *Apud Ead-*  
*mer.* pag. 93  
42.

q *Ann.* 1175,  
col. 587, 21.

r *Vide eas apud*  
*Malmsbu-*  
*rienſem fol.*  
113, a. 32.  
ſ *Lanfranc.*  
*Epiſt.* 3. pag.  
301.

s *Stubbs de*  
*Arch. Ebor.*  
col. 1706, 31.  
u *Eadmer.*  
p. 118, 5, 15.

\* Eadmer.  
p. 120, 50. p.  
121, 6.

y Eadmer.  
pag. 125.

*viveret non reclamaturum* : yet after the \* Clergy of York sued to the Pope for his restitution, which produced that letter from *Paschalis* the 2. in his behalf to *Hen.* the 1. is in *Eadmerus* ; wherein he desires, if there were any difference between the two Sees, it might be discuss'd in his presence. Which was not hearkned to; but *Calixtus* the 2. y in a Councell by him held 1119. at *Reimes* ( of which before ) ( the English Bishops not arrived, the Kings Agent protesting against it, the Archdeacon of *Cant.* telling the Pope that *jure* he could not do it) consecrated him Archbishop of *York*: upon which *Henry* prohibits him all return into his dominions. And in the interview soon after at *Gisors*, though *Calixtus* earnestly laboured th' admitting him to his See, the King would by no means hearken to it. So the Pope left the business as he found it, and *Thurstan* to prove other ways to gain th' Archbishoprick.

z Sim. Du-  
nelm. Ann.  
1120. col.  
242, 25.  
a Eadmer.  
pag. 136, 43.

b Beda, lib. 4.  
cap. 1.

Note, Malms-  
bury fol. 26.  
a. 33. says this

was Ann. 904. but that agrees not with *Formosus* his Popedome: Baronius therefore corrects it to. 10. and makes Ann. 894. n. 11. but at that time Edward was not King.

61. Who thereupon became an actor in the peace about that time treated between *England* and *France*: in which his comportments were such, that *proniorem ad sese recipiendum Regis animum inflexit*; so as upon the Popes letters he was afterwards restored, *ea dispositione, ut nullatenus extra provinciam Eboracensem divinum officium celebraret, donec Ecclesie Cantuariensis, &c. satisfaceret*. This I take to be the first matter of Episcopacy that ever the Pope ( as having a power elsewhere of altering what had been here settled ) did meddle with in *England*. It is true, whilst they were raw in Christianity, he did sometimes recommend Pastors to this Church; so *Vitalian* did *Theodore*: and farther shewed himself solicitous of it, by giving his fatherly instructions to the *English* Bishops to have a care of it; so did *Formosus* or some other by his letters 904. upon which *Edward* th' elder congregated a Synod, wherein



# Chap. III. of the Church of England. 57

five new Bishops were constituted, by which an inundation of Paganisme ready to break in on the West for want of Pastors was stopt. But it is apparent, this was done not as having dominion over them; for he so left the care of managing the matter to their discretion, as he did no way interesse himself in it farther then advise.

62. A meeting of English Bishops 1107. at *Canterbury*, or (as *Florentius Wigorniensis* styles it) a Councell restored the Abbot of *Ramsay* deposed 1102. <sup>c</sup> *jussu Apostolico*, or, as *Eadmerus*, <sup>d</sup> *juxta mandatum Domini Papa*. It is manifest, this command from *Rome* to be of the same nature those I mentioned of <sup>e</sup> *Calvins*, or at the most no other then the intercession of the Patriarch of a more noble See, to an inferior, that by his means had been converted: For his restitution (after the reception of the Papall letters) seems to have been a good while defer'd; so that what past at *Rome* did not disannull his deprivation here, till made good in *England*, as at a time when nothing thence was put in execution but by the Regall approbation; as the Pope himself complained to the King. But after the Church of *Rome*, with th' assistance of th' *English* Clergy, had obtained all elections to be by the Chapters of the Cathedralles, upon every Scruple she interposed herself.

63. The greatest part of the Convent of *London* 1136. <sup>b</sup> chose *Anselme* Abbot of *St. Edmundsbury* for their Bishop, contrary to the Deans opinion and some few of the Chanons, who appealed to *Rome*; where th' election 1138 was disannulled, the Bishoprick by the Pope recommended to *Winchester*, his then, or rather soon after, Legat; which so remained till 1141. This is the first example of any Bishop chosen, received and in possession of a Church in this Kingdom, whose election was after quash't at *Rome*, and the sentence obeyed here; as it is likewise of any Commendam on Papall command in the Church of *England*:

<sup>c</sup> Flor. Wigorn. p. 479.  
<sup>d</sup> Eadmer. pag 92, 14.  
<sup>e</sup> supra n. 20.

<sup>f</sup> Hoc per litteras olim mandaverat. Eadmer.

<sup>g</sup> Eadmer. pag. 113. pag. 115.

<sup>h</sup> Diceto col. 505, 507.

all which seems to have past with the Kings concurrence.

i Vide Iohan.  
Hagulstad.  
ab Ann. 1142.  
ad Ann. 1152.

. Bernard.  
Epist. 106.  
234, 235.  
237, 238.

64. For to <sup>i</sup>deprive *William* elected somewhat after Archbishop of *York*, where he did not joyn, was not so easy: This man chosen 1142 by the greater part of the Chapter, after five years sute in the Court of *Rome*, .*St. Bernard* opposing him, had in the end his election annull'd by *Eugenius* 3. in a Councell held at *Reims*; the Chanons of *Tork* exhorted to chuse another; some of which made choice of *Henry Murdock*, then as it seems with the Pope: who coming as Archbishop into *England*, was not suffer'd to enter on his Archbishoprick, and excommunicating *Hugh de Puzat*, a person prefer'd by *William*, was himself by him excommunicated, no intermission of divine service in the City admitted; and *Henry's* means to gain his See was by drawing the Bishop of *Duresme*, *Carlisle*, the King of *Scots*, and, by the Popes advise, this very *Hugh* by sweetnesse to his party, and in the end by the Kings Son (whom it seems he promised to get advanced to the Crown by the power of *Rome*) making his peace with *Stephen*, who soon after employed him thither on that errand. And this I take to be the second *English* election was ever here annull'd by Papall authority.

65. Here I may observe, that at first, when ever the Pope made voyd an election, he did not take upon him to appoint another in the place vacant: but either sent to the Clergy of the same Church to chuse another, as those to whom it appertained; so did *Eugenius* 3. to *Tork* when this <sup>k</sup>*H. Murdock* was chosen, *Innocentius* 3. when <sup>l</sup>*Stephen Langton*; or else the Bishoprick lay vacant, as <sup>m</sup>*London* after *Anselme* from 1139. to 1141. But elections being with much struggling settled wholly in the Clergy, and *Innocentius* 3. having\* by definitive sentence excluded the *English* Bishops from having any part in that of th' Archbishop of *Canterbury*, they

k Iohan.  
Hagulst. col.  
276, 8.  
l Mat. Paris  
Ann. 1207.  
pag. 222, 40.  
m Diceto col.  
307, 53. &  
508, 20.  
\* Mat. Paris  
Ann. 1206.  
2421 44 44.

bec

# Chap.III. of the Church of England. 59

becoming wholly appropriated to the Chapters of Cathedralls, the Pope began to creep in, and <sup>n</sup> *ex concessa plenitudine Ecclesiasticæ potestatis*, as he speaks, without any formality of choice, to confer not onely Bishopricks, but other Ecclesiastick promotions, within the precincts of others Dioceses, and by that meansto fill the fatbenefices of the Nation. The first Archbishop of *Canterbury* promoted by this absolute power of the Church of *Rome* seems to have been Richard 1229. • *non electo, sed dato ad Archiepiscopatum.*

*n* *Falla Orogor. 9. apud Mat. Paris Ann. 1229. pag. 355. 46.*

• *Mat. Paris pag. 355. 44.*

66. The *p* French Agent, in his Remonstrance to *Innocentius* 4<sup>th</sup>, attributes the beginning of these collations to *Innocent* the 3<sup>d</sup> and I have not read that either *Paschalis* the second, *Gelasius*, *Calixtus*, or *Innocent* 2. though forced to live sometimes out of *Rome*, did ever exercise auctority that way. But I will give it in his own words.

*p* *Additament. Mat. Paris MS. in Bibliotheca Cotton. fol. 135. cui initium, Dicturus quod in iunctum est mihi.*

*Certe non multum temporis elapsum est, ex quo Dominus Papa Alexander, persecutionis cogente incommodo, venit in Franciam, confugiens ad subsidium inclite recordationis Regis Ludovici patris Regis Philippi; à quo benigne susceptus est, & stetit ibi diu; & forte vivunt aliqui qui viderunt eum: ipse tamen in nullo gravavit Ecclesiam Gallicanam, ut nec unam solam præbendam aut aliud beneficium ipse Papa dederit ibi, sed nec aliquis prædecessor suus, nec multi etiam de successoribus dederunt in sua auctoritate beneficium aliquod, usque ad tempora Domini Innocentii 3. qui primus assumpsit sibi ius istud in tempore suo: Revera dedit multas præbendas, & similiter post ipsum Dominus Honorius & Dominus Gregorius simili modo fecerunt; sed omnes prædecessores vestri, ut publice dicitur, non dederunt tot beneficia ut vos solus dedistis, &c.*

*q* *Mat. Paris Hist. minor. Ann. 1252. pag. 287. fol. 143. b. col. 1. MS. in Bibliotheca Regia Westmonast.*

67. In what year th' Ambassador from *France* made this complaint, is not set down: But *q* *Mat. Paris* in his

*Historia minori* makes mention of it as done in or about 1252.

*Diebus subeisdem, Episcopo Lincolnienſi computante, compertum & probatum eſt quod iſte Papa, ſcilicet Innocentius quartus, plures redditus extortos ad ſuam contulit voluntatem, quam omnes ejus prædeceſſores; prout manifeſte patet in lugubri querimonia quam reposuerunt Franci coram Papa pro ſuis intolerabilibus oppreſſionibus, qua redacta eſt in ſcriptum Epistoſe admodum proluxa, qua ſic incipit, Dicturus quod injunctum eſt mihi, &c. quare Epistolam, &c.* By which it appears, that great liberty the Papacy took in conferring Ecclesiastick preferments within the Diöceses of others, took its rise from Pope Innocent, and, as it seems to me, not at the very beginning of his time; for 1199. *Gelardus* Archdeacon of *St. Davids* coming from Rome, *quia idem G. Menevenſis Eccleſia incuria Romana ſe dicebat electum, hoc ipſum caſſavit Archiepiſcopus, & alium ſacravit canonice electam*; though he after bestowed on him a Church of 25. marks: and this in a case the Pope had so earnestly espoused, as he wrote to the Bishops of *Lincoln, Dureſme* and *Ely*, *ſi Archiepiſcopus Cantuariæ ſepe dictum Gilardum ſanctificare differret, ipſi Apoſtolica authoritate freti illum ſanctificare non differrent*: which yet th' Archbishop, as against the English liberty, did not doubt to oppose, and disannul.

2. Roger. Hoved. fol. 453. b. 39. 454. b. 2. Gervas. Dorobern. col. 1682, 27. in viâ Haber.

ſ. In antiquo. MS. Bullarium Romano-rum. Pontificum Archiepiſcopi Cant. Tullia. 6. Honor. 3.

68. But thus it continued not long; for *Honorius*, the immediate ſucceſſor to *Innocentius* 3<sup>us</sup>, ſhewing ſuch as ſerved th' Apoſtolick ſee, and reſided with it, were worthy congruis beneficiis honorari, and were therefore poſſeſſors of divers both in England and other parts, which they did adminiſter with ſo great care, quod non minus beneficiantibus quam beneficiatis utiliſer eſt proviſum; unde, quia nonnunquam beneficiatis hujusmodi decedentibus, beneficia qua obtinuerant, in conſultis hiis ad quos eorum donatio pertinebat, aliis ſucceſſive colluſis,

collata, perpetuo illis ad quos pertinent videbantur amitti, propter quod etiam murmurabant plurimi, & alii se difficiliore ad conferendum talibus beneficia exhibebant: Nos volentes super hoc congruum remedium adhibere, ne cuiquam sua liberalitas sit dampnosa, per quam potius meruit gratiam & favorem, statuimus, ut clericis Ecclesie Romanæ, vel aliis Ytalicis, qui prabendæ vel Ecclesias, seu alia Ecclesiastica beneficia in Anglia obtinent vel obtinuerint à modo decedentibus, Præbenda vel Ecclesia, seu alia beneficia nequaquam à nobis vel alio illa vice alicui conferantur, sed ad illos libere redeant ad quos illorum donatio dinoscitur pertinere, &c. Dat. Lateran.

.i. quarto Kalend. Martii, Pontificatus nostri anno quinto.

69. Yet neither this, nor the renewing of it by Gregory the 9. with a speciall indulgence directed venerabilibus fratribus universis Archiepiscopis & Episcopis, ac dilectis filiis Abbatibus, & aliis Ecclesiarum Prælati per Angliam constitutis ---- ut si quando ad vos litteræ Apostolica pro beneficiandis huiusmodi de cetero emanarunt, ad provisionem ipsorum inviti non teneamur, nisi de hac indulgentia plenam fecerint mentionem. Dat. Lateran.

.i. 15. Kalend. Maii, Pontificatus nostri anno 4<sup>to</sup>, &c. could quiet the English, or keep them from that confederation in Mat. Paris 1231. beginning, \* Tali Episcopo & tali capitulo, Universas eorum qui magis volunt mori quam à Romanis confundi, &c. Which the Popes, by wilddome, and joyning the Regall auctority with their spirituall, found means to bring to nought; and pursuing the Papall interest without regarding what had past from them, gave the Kingdome occasion

1241. to \* observe, that in onely three years Osbo had remained Legat here, he bestowed more then 300. spirituall promotions, ad suam vel Papæ voluntatem; the Pope having & contracted (as the report went) with the Romans, to confer to none but their Children and Allies the rich benefices here, especially of Religious

.i. 26. Febr. 1221.

in eodem MS. Gregor. 9. Bulla 3.

.i. April. 17. Ann. 1230.

in Mat. Paris. p. 372. 18.

in Mat. Paris. Ann. 1241. p. 549, 1822. &c. y Idem Ann. 1240. p. 532. 43.

houses, (as those perhaps he had most power over) and to that effect had writ to the Bishops of *Canterbury* and *Salisbury*, *ut trecentis Romanis in primis beneficiis vacantibus providerent*. So that in the Councell at *Lions* 1245. they complain of these exorbitances, <sup>z</sup> and shew the revenues the *Italians* received in *England* not to be lesse then 60 thousand marks; of which more <sup>a</sup> hereafter: and in the year following 1246. reiterated their griefs to *Innocentius* <sup>4</sup> *tas. b quod Italicus Italico succedit*. Which yet was with little successe: for the Popes having (as we have heard) first settled all elections in the Ecclesiasticks, and after upon severall occasions, on the submitting of the *English* to his desires, bestowed the benefices in this and other Kingdomes on his dependents, <sup>c</sup> *John* the 22. (or, as <sup>d</sup> some seem to think, *Clement* the 5. his immediate predecessor) endeavored the breaking of elections by Cathedralles and Convents, reserving the free donation of all preferments to himself alone.

70. From whence proceeded the reiterated complaints against Papall Provisions, in the Parliaments of *Edward* the 3. and *Ric.* the 2. for this Kingdome never received his attempts in that kind: to which purpose the History <sup>e</sup> of *John Devenish* is remarkable. The Abbot of *St. Augustines* dying 1346. the 20. *Ed.* 3. the Convent by the Kings leave chose *VVm. Kenington*; but *Clement* the 6. by Provision bestowed the Abbacy on *John Devenish*, whom the King did not approve of, yet came thither armed with Papall auctority. The Prior and Convent upon command absolutely denyed him entrance, *ingressum monasterii in capite denegando*;

<sup>a</sup> *Wm Thorn*  
1082, 2. <sup>c</sup>  
frequent, vide  
*Walsingham*  
*Ann.* 1374.  
pag. 184, 1.  
*Thorn, Ann.*  
1373. col.  
2187, 57.

See the History of Nicholas de

*Spyna* resigning the Abby of *St. Augustines*, and on his nominating him, *Thomas Fyndon* preferred to be Abbot there by *Martin* the 4. who on the receipt of the Papall Bulls, acquainted *Edward* the 1. with what had past at Rome himself being in England; yet by command the house was seized into the Kings hand, and he at the Parliament held at *Aston Burnell* fined at 400. marks, pro eo quod sic fuerat creatus in Abbatem, licentia Domini Regis minime petita. *Thorn, Col.* 1939; 1. <sup>c</sup> 1934.

who



who thereupon returned to *Avignon*. The businesse lying two years in agitation, the King in the end, for avoyding expences and other inconveniences, <sup>f</sup> *ex abundanti concessit ut, si idem Iohannes posset obtinere à summo Pontifice quod posset mutare stylum sue creationis sive provisionis, scilicet non promoveri Abbatia prædicta ratione donationis vel provisionis Apostolicæ, sed ratione electionis capituli huius loci, illa vice annueret, & suis temporalibus gaudere permetteret: sed quidem huiusmodi causa coram ipso summo Pontifice proposita, concludendo dixit, se malle cedere Pontificio, quam suum decretum taliter revocare, &c.* Which so afflicted the poor man, as the grief killed him on *St. Iohn Baptists Eve* 1348. without ever entering the Abby; and the dispute still continuing, the Pope 1349. wrote to the King, *Ne Rex impediret, aut impediri permetteret promotos à curia per bullas acceptare beneficia sibi taliter incumbentia.* To which his May answer'd, *Quod Rex bene acceptaret provisiones clericos qui essent bonæ conditionis, & qui digni essent promoveri, & alios non.*

*f* *vide varias lectiones ad col. 2117. & 4. que vero ibi debent interseri pertinent ad Hist. de qua hic agitur col. 2082.*

*g* Hen: Knighton col. 2001. 379. 49.

71. But the year following 1350. the 25. *Ed. 3.* the <sup>h</sup> Commons meeting in Parliament complain with great resentment of these Papall grants, shewing the Court of *Rome* had reserved to it self both the collation of Abbeys, Priories, &c. as of late in generall all the dignities of *England*, and Prebends in Cathedrall Churches, &c. Upon which the statute of Provisors was in that Parliament enacted; which was the leader to those other statutes, 27. and 38. *Ed. 3.* <sup>i</sup> The 48. *Ed. 3.* 1374. the treaty between *Ed. the 3.* and *Gregory the xi.* was concluded after two years agitation, wherein it was expressly agreed, *quod Papa de cætero reservationibus beneficiorum minime uteretur, &c.* Notwithstanding which, the Commons the next Parliament prefer'd a petition, shewing <sup>k</sup> all the benefices of *England* would not suffice the Cardinalls then in being, the <sup>\*</sup> Pope having by the

*h* Rot. Parl. off. v. Paris. 25. *Ed. 3.* n. 13. See the words of the petition, cap. 4. v. 15.

*i* *Walsing. hist.* 1374. pag. 184. 6. Rot. Parl. 1. R. 2. n. 66. Thorn, 1373. col. 2187. 58. *k* Rot. Parl. 50. *Ed. 3.* n. 110. 115. <sup>\*</sup> *Gregory XII.*

addi-

addition of XII. new ones raised the number to XXX. which was usually not above XII. in all; and therefore they desire it may be ordained and proclaimed, that neither the Pope nor Cardinalls have any Procurator or Collector in *England*, *sur peine de vie & de membre*, &c. Yet the inconveniences still continuing, 3. Ric. 2. produced that <sup>k</sup> statute is in the print: I shall not here repeat otherwise, then that the Commons in the Roll, seem to lay the beginning of these excesses no higher then *Clement* the 5.

72. By these arts, degrees and accessions, the Church of *Rome* grew by little and little to that immenseness of opinion and power it had in our nation; which might in some measure (whilst it was exercised by connivence onely, upon the good correspondency the Papacy held with our Kings and Church,) be tolerated, and the Kingdome at any time by good Lawes redresse the inconveniences it sustained. But that which hath made the disputes never to be ended, the parties not to be reconciled, is an affirmation that *Christ* commanding *Peter* to feed his sheep, did with that give him so absolute a power in the Church, (and derived the like to his successors Bishops of *Rome*,) as without his assent no particular Church or Kingdome could reform it self: and for that he as a Bishop cannot be denied to have as much power as others from *Christ*, and may therefore in some sense be said to be <sup>l</sup> Christs Vicar, to appropriate it onely to the Pope, and draw thence a conclusion that *jure divino* he might and did command in all particulars *Vice Christi*. And though no other Church in the Christian World doth agree with the *Roman* in this interpretation; though Historians of unquestioned sincerity have, as we have (in some measure) heard,

k 1. Ric. 2.  
cap. 3. 7. Ric.  
2. cap. 12.

l Christi vicarii sacerdotes sunt qui vice Christi legatione funguntur in Ecclesia. Eusebii Pape Epist. 3. 10. 1. concil. Ele.

etum à Fratribus Christi Vicarium suscipiant, (scil. in Abbatem:) Hydensium leges ab Adgato cap. 15. Concil. Spelm. pag. 440. quis locus poterit esse tutus, si rabies sancta sanctorum cruentat? & Vicarios Christi, alumnos Ecclesiæ dilacerat? Epist. Wi. Senonensis, apud Moxed, Ann. 1171, fol. 299. b. 32. de morte Thoma Archiepiscopi.

in their own ages deliver'd when and how these additions crept in, and by what oppositions gained; that our Princes have, with th' advise of the Lay and Clergy, ever here moderated th' exorbitances of the Papacy in some particular or other, and likewise reformed this Church; though the stipulations between our Kings and Rome have not been perpetuall, but temporary, not absolute, but conditionall, as is to be seen in that past between *Alexander* the 3. and *Hen.* the 2. viz. *"juravit quod ab Alexandro summo Pontifice, & ab Catholicis ejus successoribus non recederet, quamdiu ipsum sicut Regem Catholicum habuerint*; that the *English* Bishops being excommunicated by the Pope might not take an oath of obedience to his commands, *quia regni consuetudines impugnabat*, though he did never exercise any authority here, but according to such stipulations, contracts and agreements with our Princes, as the Lawes permitted; and therefore when he sent hither a Legat à Latere, *∴ he was trectyd with or he cam into the lond, whon he schold have exercise of his power, and how myche schold bee put in execution: An aventure after he had bee reserveyed, he whold have used it to largely, to greet oppression of your peple, &c.* as the Archbishop wrote to *Hen.* 5. as I have shewed numb. 55.

73. Though the Lawyers of the Kingdome do constantly affirm, as the Law and Custome of the Realm, the Kings Courts never to have carried regard to any forraign excommunication, and if any such came from Rome, P notto be put in execution, but by allowance first had: to which effect it is remembred, the Bishops of London and Norwich having publish't in their Diocesesthe Popes excommunication of *Hugh* Earl (as it seems) of *Chester*, without the privy of *Hen.* the 2. or his Chief Iusticiar, the Kings writ issued out in this manner; *¶ Londoniensis & Norwicensis Episcopi sint in misericordia Regis, & summoneantur per Vicecomites*

m Gervas.  
Dorobern.  
col. 1422, 18.  
Hoved. fol.  
303. a. 1.  
Ann. 1172.  
n Iohan. Sa-  
risbur. Epist.  
279. p. 483.

∴ Epist. Hen.  
Chichly in  
vita ejus, pag.  
79.

o Fitz. Ex-  
commenge-  
ment; 4, 6, 10.

p Vide Ho-  
veden. fol.  
284. b. 23.

q Ex antiquo  
MS.

r<sup>o</sup>ram. Ho-  
veden.

¶ Bedellos, ut sint <sup>r</sup> contra Iusticias Regis, ad rectum faciendum Regi & Iusticiis ejus de eo quod, contra statuta de Clarendone, interdixerunt ex mandato Pape terram comitis Hugonis, & excommunicationem quam Dominus Papa in ipsum fecerat per suas parochias divulgaverunt sine licentia regis. This however contracted in Hoveden 1165. and in <sup>r</sup> Paris 1164. yet the difference is such as may deserve a remembrance. It seems to me, what our Kings claimed, not to be altogether unlike the <sup>r</sup> Exequatur of Naples, observed to this day in that Kingdome, notwithstanding all contelts from Rome.

† Girolamo  
Cassena vita di  
Pro 5<sup>to</sup>. pag.  
96, 97, 98,  
100 in 8vo.  
Rome 1587.

¶ Adriani  
Hist. lib. 19.  
pag. 1378. A.  
n Ger. Doro-  
bern. col.  
1422, 50.  
x pag. 6.

y 2. H. 4. Ac-  
cion sur le case.  
25. Fitz.  
\* 31. Ed. 3.  
Excommen-  
gement. 6.

z Froissard.  
to. 1. cap. 47.  
pag. 58. Gall.

\* Benediſtus  
xii. Iacobus  
Meierus An-  
nal. Flandr.  
Ann. I. 40.  
fol. 141, a.

74. Neither did the Crown ever relinquish this right, not at the peace after Beckers death, when <sup>r</sup> Henry the 2. assented to quit no other then *Consuetudines quæ introductæ sunt tempore suo*; which it is manifest this was not, as appears by <sup>r</sup> Eadmerus. It is farther observable, that by the common Laws (that is y the common Custome of this Realm) the <sup>r</sup> sentence of the Archbishop is valid in England, and to be allowed in the Kings Courts, though controuled by the Pope: and to shew our Princes had no regard to anything of this nature from thence, other then such a complying with a reverend Prelat as I have formerly mentioned did admit, it may not here be unfitly inserted what z Froissard writes of Edward the third, with whom the Flemings joyned against the French; upon which, (but I shall deliver it in his own words) *Adonc le Roy de France s'en complainit au Pape* \* Clement sixieme, qui getta une sentence d'excommuniement si horrible, qu'il n'estoit nul prestre qui aſast celebrer le divin service: De quoy les Flamens envoyèrent grande complainte au Roy d'Engleterre; lequel pour les appaiser, leur manda, que la premiere fois qu'il rappasseroit la mer, il leur ammeneroit des Prestres de son pais qui leur chanteroient la Messe, vousist le Pape ou non car il estoit bien privilegié de ce faire: & par ce moyen s'appaiserent les Flamens, &c. As for the priviledge here spoken

spoken of, that can be no other then the obligation all Kings owe unto God, for seeing his word sincerely taught them live under their protection, without the disturbance of any.

75. In which kind ours have been so far from yielding obedience to the Papall attempts, as *Edward* the first could not be induced to spare the life of one brought a <sup>a</sup> Bull from the Pope, might have made some disturbance, but by his abjuring the Realm; as his grand-child *Edward* the 3. did <sup>b</sup> cause some to suffer for the same offence. And on occasions our Kings have prohibited all intercourse with *Rome*; <sup>c</sup> denied their Bishops going thither so much as for confirmation, but the Metropolitans, if need were, should by the Kings writ be charged to confirm them; <sup>d</sup> commanded their subjects not to rely on any should come from thence, affirming, *quod in regnum nostrum nec propter negotium nostrum nec vestrum ullatenus intrabit ad terram nostram destruendam*. Yet notwithstanding so notorious a truth, back't with so many circumstances, grounded upon unquestioned monuments of antiquity, hath not been received; but the bare affirmation, *Christ* by *pascu oves meas* intended *Peter*, and by consequence the Pope, to be the general Pastor of the world, and the meaning of those words to be, that he should <sup>e</sup> *regio more imperare*, hath so far prevailed with some, as to esteem the standing for the rights of the Kingdome, the Laws and Customes of the Nation, to be a departing from the Church Catholick; and to esteem nolesse then Hereticks those, who defending that which is their own from th' invasion of another, will not suffer themselves to be led hood-winkt, to think the preservation of their proper liberty is a leaving *Christ*, his Church, or the Catholick faith.

76. I dare boldly say, whoever will without partiality look back, shall find the reverence yielded from this

<sup>a</sup> *Astise lib.*  
30. placit. 19.

<sup>b</sup> *Walling-*  
*ham Hist.*  
*Ann.* 1358.  
pag. 165, 48.  
<sup>c</sup> *Vide Ho-*  
*ved. fol.* 284.  
b. 13.

*Rot. Parl.* 16.  
*March* 3. H. 5.  
n. 11. See the  
9. H. 4. n. 37.  
<sup>d</sup> *Gervas. Do-*  
*robert. col.*  
155, 51.

<sup>e</sup> *Bellarmin.*  
*Recognit. pag.*  
21. Edit. In-  
*golsta.* 1608.

f Tacit. de  
moribus Ger-  
manorum. Vide  
Lanfranci E-  
pist. 8. p. 305.

g Beda lib. 4.  
cap. 17.  
h Malm'sbur.  
fol. 150. &c.  
i Vide Ead-  
mer. pag. 62.  
36. Lanfranci  
Epist. 20. pag.  
311.

k Florent.  
Wigorn.  
Ann. 1070.  
pag. 435. &  
436. Sim Du-  
nelm. col. 29.  
l Baron. 10.  
11. Anno  
1071. n. 11.

Church to *Rome* for more then a thousand years after *Christ*, to have been no other then the respect of love; nor of duty, and Popes rather to *consulere* then *imperare*; their dictats to have been of the same nature as the German Princes were of old, *auctoritate suadendi magis quam iubendi potestate*, never requiring a necessity of obedience *eo nomine* that they came from *Rome*, but for that they were just and reasonable: neither did the Pope send any Agent hither to see them put in execution; but th' Archbishop, according to the exigent of times, receiving his wholesome advises, caused such as he held of them did conduce to the good of the *English* Church to be observed. So *Theodore* & received those of Pope *Martin*, but *h* did not them concerning *Wilfred*, from *Agatho*. When *Alexander* the 2. had exempted the i Abbot of *St. Edmunds-bury* from the jurisdiction of the Bishop of *Norwich*, *Lanfrank* took the Act from the Abbot: and *Gregory* the 7. is so far from using commands in the cause, as he onely earnestly intreats the Archbishop he would stop the Bishop of *Norwich* from molesting the said Abbot; yet himself as it seems did not restore the Bull of immunity to him during that Popes life. (but of this before.) In the year 1070. on the Kings desire in a Councell at *Windfor*, k *Agelricus* Bishop of the *South-Saxons* is degraded, and his Bishoprick confer'd on *Stigandus*: *Alexander* the 2. not approving what had past, l writes to the King, this cause seemed to him *non ad plenum tractata*, *ideoque sicut in canonibus cautum est*, *in pristinum locum debere restitui iudicavimus*; Deinde, *causam ejus, juxta censuram canonice traditionis diligenter retractandam & definiendam, predicto fratri nostro Archiepiscopo Lanfranco commissimus*. It is certain (however some writers might upon this or for other causes think his degradation to have been *non canonice*) those times did not interpret this (though writ with so great earnestnesse) for other then advise or intercession,



### Chap.III. of the Church of England. 69

recession, not as of a person had an absolute power of commanding in the business; for we never read of any proceedings upon it, not *Lanfrank* at all ever to meddle in the case, that he ever esteemed *m Stigand* a lawfull Bishop *Epist.* 27, 28. who in the year 1075. being in a Councell at *London*, according to the Decrees of it, removed his Episcopall Chair from *Selfey* to *Chichester*, of which he died Bishop 1087. without being at all, for what appears, questioned or disturbed after the first grant of it. Divers examples of the like nature occur too long to be repeated, where the King or His chief Iustice prohibit the Papall precepts from being put in execution: and it is agreed by Lawyers, that not the command, but the constant obedience, is it which denotes a right of commanding; and in cases of this nature *prohibentis potior est conditio*, one example in the negative, when the thing is stood upon, being of more weight then twenty by compliance in the affirmative.

77. It is probable, neither the King nor the Bishops would introduce any new matter of great concernment into this Church, without the privy of so great a Doctor, Patriarch of a See, from which their auncetors had received the first principles of *Christian* Religion; but it is manifest, what past, (if he were acquainted with it) was by their own auctority, not his. When *Offa* intended the erecting of *Litchfield* into an Archbishoprick, he did it by a Councell at *Calcuith*: *Lambertus* (as what he approved not) producing *q crebra sedis Apostolica & vetera & nova edicta* against it, yet the thing proceeded. *Lucius* the 2. went so far in his intentions to raise *Winchester* to an Archiepiscopall Chair, as he sent the pall to the Bishop: yet it being not approved here (as the event shews) that Town never yet had the honour. *Henry* the first having in his Lawes appointed how a Bishop, Presbyter, Monk, Deacon, &c. should suffer, committing homicide, concludes, *Si quis ordinatum ecci-*

*m Lanfranci Epist* 27, 28.  
*& apud Eadmer.* pag. 13.  
*n Malms. de pontif.* lib. 1. fol. 121. b. 27.  
*Vita Lanfranci* cap. 12. pag. 13. C. col. 1.  
*o Florent.*  
*Wigorn.*  
*Ann.* 1077. pag. 449.  
*p Vide Gerwas. Doro-*  
*bern.* Ann. 1087. col. 1503, 38.

*q Malms. de regibus* lib. 1. fol. 15. b. 34.  
*. Diceto*  
*Ann.* 1142.  
*Mat. West.*

*r Leg. Hen. 1. cap. 73. pag. 204. 29.*

\* Legendum  
Nunnæ cum  
MS. Lon-  
don. Seld. &  
nostro, non  
nimio, at MS,  
Schachar.

† Leg. Hen. I.  
cap. 31. p. 187.  
29.  
u Ibid. cap. 5.  
pag. 173, 28.

x Ingulph.  
fol. 522. a. 6.

y Eadmer.  
pag. 29, 23.

z Rot. Parl.  
18. Ed. 3.  
n. 23. 24. pet.  
1. du Clergie.

a Walsing.  
Hist. Ann.  
1344. p. 155.  
1.

dat, vel proximum suum, exeat de patria sua, & Romam  
adeat, & Papam, & consilium ejus faciat; de adulterio,  
vel fornicatione, vel \* Nunnæ concubitu similiter pœniteat.  
Where it is observable, the King ordains the Penance,  
permits the delinquents peregrination to Rome, to re-  
ceive from the Pope (as from a great Doctor of the  
Church) spirituall counsell, which else he was not ad-  
mitted to seek; for † *peregrina judicia modis omnibus sub-*  
*movemus*; and again, ‡ *ibi semper causa agatur, ubi cri-*  
*men admittitur*.

78. VVilliam the first (who began his expédition a-  
gainst Harald by the counsell of Alexander the 2. and re-  
ceived a \* banner from him) minding the deposition of  
th' Archbishop of Canterbury, procured the Pope to  
send certain Ecclesiasticks hither to joyn in the action, as  
likewise soon after for determining the question of pre-  
cedency between Canterbury and York; upon which  
there grew an opinion, § *Archiepiscopum Cantuarien-*  
*sem à nullo hominum, nisi à solo Papa, judicari posse vel*  
*damnari, nec ab aliquo cogi pro quavis calumnia cuiquam,*  
*eo excepto, contra suum velle respondere*. This no doubt  
was promoted by th' Archbishops, as what exempted  
them from all home jurisdiction, the Bishops in gene-  
rall did after think in some sort to introduce; and there-  
upon put in this petition in Parliament z 18. Ed. 3. *qe*  
*pleise a Roy, en maintenance del estat de seint Esglise,*  
*graunter & ordeiner en cest Parlement, qe nul Ercevesque*  
*ou Evesque soit desormez, arreynez, ne empeschez devaunt*  
*ses Justices, en cause criminele, par quecunque voye, de si*  
*come sur tiele cause nulle alme ne les poet juger, si noun le*  
*Pape seulement*. But to this the answer is no other then, *il*  
*est avis, qe en cause de crime, nul Ercevesque ou Evesque*  
*soit empesche devant les Justices, si le Roy ne le commande*  
*especialment tant qe autre remédie soit ordeinez*: which he  
did likewise confirm by Charter there registred, and as  
a Walsingham hath truly recorded.

### Chap.III. of the Church of England. 71

79. This opinion, though <sup>b</sup> new to the English, questionlesse encouraged *Anselme* to oppose the King in many particulars, and Popes to go farther; as to claim Princes should not confer Investitures, nor define matters of Episcopacy, &c. then to bestow preferments within this Kingdome, at first by consent, and with the limitation no *Italian* to succeed another, then to reserve to themselves the collation of all benefices; of which before. To conclude this; whosoever will without prejudice weigh the reformation of *England* by *Hen.* the 8. *Edward* the 6. and more especially *Queen Elizabeth* in the point of supremacy, must grant these Princes did not assume to themselves any thing, but such particulars as the Court of *Rome* had in a long series of time inroached in on the Crown and *English* Church. If at any time our auncestors styled the Pope *Princeps Episcoporum*, it was in no other sense then they did *St. Peter Princeps Apostolorum*; by which what principality they intended him, we cannot better understand then by the Saxon, who renders it *Galbon Dapa Apostola*, the Elder of the Apostles. If they called him *successor* or *Vicarius Petri*, they were not alone appropriated to him, for <sup>d</sup> *Petrus Blesensis* and others give the Bishop of *York* the same titles; and the Bishop of *Bath*, who had a Church dedicated to *St. Peter*, he bids remember *quia Petri Vicarius estis*. So did they likewise in some sense call Kings <sup>e</sup> Christs Vicars, as well as Bishops. If at any time they gave the Pope the title of *head* of the Church, it was, as being the first Bishop, he was held to be, as *St. Bernard* tells us, *in beneficam causam*; as they <sup>h</sup> termed *Oxford* the fountain and mother of our *Christian faith*. I cannot therefore but wish a \* late wri-

<sup>b</sup> Proinus intellexerunt quod prius non animadvertunt. Eadmer. p. 29, 21.

<sup>c</sup> Beda Latin. Saxon edit. 1644. lib. 2. cap. 6 p. 123. lib. 4. cap. 18. p. 302. & a. libi. d. Epist. 113, 148. Vide Stubbs de Archiepisc. Ebor. in Al-dredo col. 1703, 37. 1704, 13. vide supr. c. 2. n. 72. <sup>e</sup> Leg. Edwardi Confessoris cap. 17. Sel-

deni Note ad Eadmer. p. 115, 12, & c. f. Rot. Parl. at Glocest. n. 78. in nonnullis libris impressis cap. 6, & 7. g. Bernard. de consideratione lib. 3. cap. 3. h. Rot. Parl. 1. Hen. 6. n. 43. \* Philip Scot his treatise of Schisme, p. 165.

∴ I will not undertake to maintain that the Pope is Antichrist, professing my weakness & ignorance of those propheticall Scriptures to be so great, that I dare not be confident in my interpretations of them. *Taxter his Christian concords Explication. p. 69.*  
 ∴ Diceto, *Ann. 607. & 608. col. 437.*  
 23.  
 i *Antiquit. Britan. Eccles.*  
*pag. 334, 337.*  
*edit. London.*  
 1573.  
 k *Ger. Doro-*  
*bern col.*  
*1663, 24.*  
*col. 1615, 60,*  
 63.  
 l *Epist. Radulph. Archi-*  
*episc. Calixto 2.*  
*col. 1736. 1.*

ter, that sayes *England had a known subjection to Rome acknowledged even by our Laws, ever from the conversion of our Country under St. Gregory*, had expressed in what particulars that subjection did consist, what those Laws are, and where to be found. The truth is, as there is no doubt our Auncestors in former times would not have joyned with the Synod of *Gap*, in causing so ∴ disputable ambiguous a question as that the Pope is *Antichrist* to have been taught as the faith of the *English Church*; so there is no question, but it hath been ever the *Tenet* of it, *Pontificem Romanum majorem aliquam jurisdictionem non habere sibi à Deo collatam in Sacra Scripturâ in hoc regno Angliæ, quam alium quemvis eternum Episcopum*: which our ∴ Historians do mention as what proceeded from the constitutions of the Church and assent of Emperors, not as of a thing in it self *juris divini*: insomuch as,

80. That proposition, <sup>i</sup> when it was propounded 1534. in *Henry* the 8<sup>th</sup>s time in convocation, all the Bishops without exception, (and of others onely one doubted, and four placed all Ecclesiastick power in the Pope,) both the Universities, and most of the Monasteries and Collegiat Churches of *England*, approved & avowed as the undoubted opinion of the Church of this Nation in all ages. Neither can I see how it can be otherwise: for if the Church of *Canterbury* <sup>k</sup> were *omnium nostrum mater communis sub sponsi sui Iesu Christi dispositione*, if it were *Mater omnium Anglicanarum Ecclesiarum, & suo post Deum proprio latatur pastore*; that is, if th' Archbishop had no mediate spirituall superior but *Christ & God*; if the power the Pope exercised over him within this Realm were <sup>l</sup> *voluntate & beneficio*, gained, as I have shewed, by little & little, voluntarily submitted unto; it could be no other then *jure humano*: and then it must be granted, the Church of *England* could not hold any necessity of being in subjection to the See or Church

# Chap. III. of the Church of England. 73

Church of Rome *jure divino*; as it is manifest they did not, in that they <sup>m</sup> sometimes acknowledged no Pope, <sup>m</sup> otherwhiles shewed an intent of departing from his union, and the Bishops as well as Lay Lords advised *Anselm*, *o Urbani obedientiam abjicere, subjectionis jugum excutere*, &c. Neither could the Church of England be any way possible guilty of Schism, adhering to their Ghostly Superior next and immediate under *Christ Iesus*.

As for the temporall profits the Court of Rome received hence, though the denying them can be no just cause of such a spirituall imputation, especially on private men; yet certainly who will examin their beginning, as he shall find it to have been by the bounty or permission of our Princes, so upon search he will perceive the Kingdome went no farther then the Common Law, the precedent of former times, and such an exigency did force them to: of which therefore I shall adde a word or two.

*m* Eadmer.  
pag. 25, 40.  
*n* Mat. Paris,  
Ann. 1163.  
pag. 107, 45.  
pag. 111, 24.  
*Vide* Epist.  
*Gilberti Londenensis Episc.*  
*apud Hoveden.* fol. 288,  
34, 38. Ann.  
1166.  
*o* Eadmer.  
p. 28, 23.

L

CHAP.

## C H A P. IV.

Of the Payments to the Papacy  
from England.

1. **H**evast summes the Court of Rome did of late years upon severall occasions export out of this Kingdome, mentioned in the statute of the 25. Hen. the 8. are spoken of by severall of our writers: and though some<sup>b</sup> have in generall expressed how much the Nation suffer'd in that kind; yet none, that I know, in one tract did ever shew by what degrees the Papacy gained so great a revenue, as the Commons in Edward the thirds dayes had cause to complain, it did turn <sup>c</sup> *a plus grand destruction du Royaume de toute la guerre nostre Seigneur le Roy*. I have thought therefore that it will not be amisse to set down, how the Pope came to have so great an influence over the treasure of the Clergy in this Land, by seeking out how and when the greatest of the paiments made to him began, what interruptions or oppositions were met with, either at the beginning or in the continuance of them.

2. The first payment, that I have read of, which gave the Pope an entrance as it were in to it, was that bounty of our Princes known to this day by the name of *Peter-Pence*: and this as it was given for an <sup>d</sup> Almes by our Kings, so was it no otherwise received by the Court of Rome; <sup>e</sup> *Eleemosyna beati Petri, prout audivimus, ita perperam dolo seque collecta est, ut neque mediam ejus partem hactenus Ecclesia Romana suscepit*, saith *Paschalis* the 2. So that no question <sup>f</sup> *Polidore Virgil* very inconsiderately termes it *veftigal*, and others, who by that gift contend the Kingdome became <sup>g</sup> *tributarium feudatarium* <sup>h</sup> *Sic Petro ejusque successoribus*: for though the word *tributum* may perhaps be met with in elder <sup>b</sup> writers,

a 25. Hen. 8.

cap. 21.

b Apud Mat.

Paris Epist.

universitat.

Anglicæ, Anno

1245. p. 667.

38.

c Rot. Parl.

88av. Purific.

25. Ed. 3.

n. 13. of which

hereafter n. 15.

d Vide Epist.

W<sup>m</sup>. 1. apud

Baron. 10. 11.

Ann. 1079. &amp;

inter Lan-

franci Epist. 7.

e Epist. Hen-

rico 1. apud

Eadmer.

pag. 113, 27.

f Hist. lib. 4.

p. 89, 40, 43.

g Note in

Lanfranci E-

pist. 7. p. 347.

col. 2. d.

h Malmshur.

fol. 128. b. 25.



ters, yet never did any understand the Pope by it to become a Superior Lord of the Lay fee, but used the word metaphorically; as we do to this day terme a constant rent a kind of *tribute*, and to those who pay it, and over whom we have in some sort a command, we give the title of subjects; not as being Princes over them, but in that particular being under us, they are for it styled our inferiors.

3. What *Saxon* King first conferred them, whether *Ina*, as <sup>i</sup> *Ranulphus Cestrensis* sayes report carryed, or *Offa*, as <sup>k</sup> *Iorvalensis*, I will not here enquire, as not greatly materiall. <sup>l</sup> *Polidore Virgil* tells, some write *Ethelwolphus* continued it: with whom *Brompton* seems to concur. It is true, our Historians remember he caused <sup>m</sup> 300. *mancusas denariorum* (<sup>n</sup> *Malmsbury* renders it *trecentas auri marcas* (which was ten times the value of silver) as <sup>o</sup> another *trecenta talenta*) to be carried every year from hence to *Rome*; which could be no other then the just application of *Peter-Pence*: for amongst sundry complaints long after from <sup>p</sup> *Rome*, we find the omission of no payment instanced in, but of that duty onely; neither do the body of the Kingdome in their <sup>q</sup> Remonstrance to *Innocentius* 4. 1246. mention any other as due from hence to *Rome*.

4. This therefore thus confer'd by our Kings, was for the generality continued to the Papacy; yet (to shew, as it were, that it proceeded only from the liberality of our Princes,) not without some stops. Of those in the times of *William* the first & *Henry* his Son I have <sup>r</sup> spoke. *Henry* the 2. during the dispute with *Becket* and *Alexander* the 3. commanded the Sheriffs through *England*, that *s Denarii beati Petri colligantur, & serventur, quousque inde Dominus Rex voluntatem suam praeceperit*. During the Reign of *Edward* the 3. the Popes abiding at *Avignon*, many of them *French*, their partiality to that side, and the many Victories obtained by th' *English* be-

<sup>i</sup> Polychronic.  
lib. 5. cap. 24.  
<sup>See</sup> *Brompton*  
col. 802, 23.  
<sup>k</sup> Col. 716, 17.  
<sup>l</sup> Lib. 4. p. 83.  
44.  
<sup>m</sup> Florent.  
Wigorn.  
Ann. 855.  
pag. 300. <sup>o</sup>  
<sup>Sim.</sup> Du-  
nelm.  
<sup>n</sup> De Regibus  
lib. 2. cap. 2.  
fol. 22. a. 27.  
<sup>o</sup> Iorvalensis  
col. 802, 27.  
<sup>p</sup> This ap-  
peares by the  
Epistle of Wil-  
liam the 1. 10  
Paschalis  
the 2. before  
cited, and so to  
<sup>Henry</sup> the 1.  
<sup>q</sup> Apud Mar.  
Paris p. 698,  
51.  
<sup>r</sup> Cap. 3. n. 11.  
cap. 4. n. 2.  
<sup>s</sup> Apud Mar.  
Paris Anno  
1164. p. 103,  
45. <sup>o</sup> Ho-  
veden Anno  
1165, fo. 284.  
b. 26.

a Hen.  
 Knighton  
 col. 2015, 41.  
 b Caxton.  
 Continuat.  
 Polychronic.  
 cap. 2. Stow  
 Ann. 1365.  
 c Hen.  
 Knighton col.  
 2664, 66. &  
 2644, 31.  
 d In fasciculo  
 zizaniorum  
 MS. in Bi-  
 bliotheca Au-  
 ustitis Arm-  
 ehani, fol. 59,  
 b. col. 2.

gat the proverb, \* *Ore est le Pape devenu François, & Iesu devenu Anglois, &c.* about which time our Historians observe, the King gave command \* no *Peter-Pence* should be gather'd or pay'd to *Rome*. And this restraint, it seems, continued all that Princes time; for *Richard* the 2. his successor at his beginning caused *John Wickliffe*, esteemed the most knowing man of those times, to consider the right of stopping them; whose determination in that particular yet remains, entituled *Responsio Magistri Iohannis Wicliffe ad dubium inscriptum, quæsitum ab eo per Dominum Regem Angliæ Richardum secundum & magnum Concilium, anno regni sui primo*: then the question followes, *Dubium est, utrum regnum Angliæ possit legitime, imminente necessitate sue defensionis, thesaurum Regni detinere, ne deferatur ad externos, etiam Domino Papa sub pœna censurarum & virtute obedientie hoc petente; & relicto viris peritis quid dici debet in ista materia, secundum jus canonicum, secundum jus Angliæ vel civile solum restat suadere partem affirmativam dubii, secundum principia legis Christi*: then shews, those payments being no other then Almes, the Kingdome was not obliged to continue them longer then stood with its own convenience, and not to its detriment or ruine; agreeing therein with that of Divines, *extra casus necessitatis & superfluitatis Eleemosyna non est in precepto*.

a Rot. Parl.  
 1 Ric. 2. n. 84.

5. But in the Parliament held the same year, the question was concluded: for there this petition being prefer'd, a *que y puisse estre declaree en cest present Parlement, si la charge de la denir Seint Pierre, appelle Rome peny, sera leve des dites Comtes, & paye al Collector nostre Seint Pere le Pape ou noun*; the answer was, *soit fait come devant ad este usee*: By which the use of them being again returned, did so remain till *Henry* the 8<sup>th</sup>. time. For though in a<sup>b</sup> councell held at *London* 1408, it was treated *de censu & obedientia Papa subtrahendis vel non subtrahendis*;

b Walsing.  
 Hist. Anno  
 1408. p. 420,  
 2.

# Chap. IV. of the Church of England. 77

*hendis*; yet that it past farther then words I have not observed. But King <sup>e</sup> Henry 1533 took them so absolutely away, as though Queen *Mary* repealed that Act, and *Paulus Quartus* dealt earnestly with her <sup>d</sup> Agents in *Rome* for restoring the use of them; yet I cannot find they were ever gather'd, and sent thither during her time: but where some Monasteries did answer them to the Pope, and did therefore collect the taxe, that in proceſſe of time became as by custome pay'd to that house; which being after derived to the Crown, and from thence by grant to others, with as ample profits as the Religious persons did possesse them, I conceive they are to this day pay'd as an appendant to the said Mannors, by the name of *Smoak-mony*.

c 25. Hen. 8.  
cap. 21.

d Hist. Concil.  
Trident. lib. 5.

6. Before I passe from this, one thing is not to be omitted; that however the Pope had this as a due, and for that end his Collector did abide in *England*; yet he might not raise the auncient accustomed proportion of the *Taxe*, nor in any kind alter the manner of taking it: for when *Rigandus* from the Pope endeavored that, he was streightly prohibited by *Edward* the 2. The <sup>e</sup> Act it self is printed.

e Fox Alls  
Monuments  
in Edw. 2.

As for the value these *Peter-Pence* did amount to, I have seen in an old *MS.* belonging to the Church of *Chichester*, a Bull said to be of <sup>f</sup> Gregory 5<sup>th</sup>s. that did proportion them after this manner.

f Vide Concil.  
Spelm. p. 313.

Episcop.				Episcop.							
		l.	s.	d.			l.	s.	d.		
<i>Cant.</i>	—	—	07	18	00	<i>Exoniensis</i>	—	—	09	05	00
<i>London.</i>	—	—	10	10	00	<i>Wigorniensis</i>	—	—	10	05	00
<i>Roffensis</i>	—	—	05	10	00	<i>Herefordens.</i>	—	—	06	00	00
<i>Norwicensis</i>	—	—	21	00	00	<i>Bathon.</i>	—	—	12	00	00
<i>Eliensis</i>	—	—	05	00	00	<i>Sarisbur.</i>	—	—	17	00	00
<i>Lincolniensis</i>	—	—	42	00	00	<i>Coventrensis</i>	—	—	10	00	00
<i>Ciceſtrenſis</i>	—	—	08	00	00	<i>Eborac.</i>	—	—	11	10	00
<i>Winton.</i>	—	—	17	06	08						

Dat. apud *Vrbem Veterem* x. Kalend. *Maii*, Pontificatus nostri anno secundo.

g Florent.  
Wigorn.  
Ann. 1109.  
p. 482. & alii.  
h Remigius  
circum Ann.  
1080. tran-  
stulit sedem  
Episcopalem  
de Dorkecestra  
Lincoln. &  
Herebertus  
circa 1086. de  
Thetfordia,  
Norwich.  
Malmesbur. de  
Pont.  
i cap. 3. n. 50.  
k Vita Abbatis.  
p. 140, 27.  
Hist. major.  
pag. 414, 26.  
l Ann. 1191.  
col. 663. 6.

m Mat. Paris  
Ann. 1226.  
pag. 328, 13.  
n Ordericus  
Vitalis pag.  
846. c.

o Mat. Paris  
Additament.  
MS. ubi su-  
pra, cap. 3.  
n. 66.

But this could not be the Bull of *Gregory* the 5. who dyed about 997. before *Ely* was erected, or Episcopall chaires placed in *Lincoln* or *Norwich*.

7. The last article in the oath prescribed the Clergy from the Pope, of obedience to him, was, not any way to alienate the possessions of their houses *inconsulto Romano Pontifice*. Whether this clause were inserted when 1115, it was first required of *Raulf* th' Archbishop of *Cant*. I have not been able to certify my self; and am apt to believe it was not: for though we find it in *Math. Paris*, when it was first imposed on Abbots and Bishops, yet that was after the Court of *Rome* had tasted the sweetnesse of taxing other Churches; neither is it in any of those conditions mentioned by *Diceto*. But when ever it came in, it implying a right of alienating the possessions of Religious houses and Churches, with the Papall licence, bred an opinion, that without his assent there could be no good sale made of their estates, by any temporall or spirituall power whatsoever, though with their own concurrence: and the Court of *Rome* grew to maintain, *That* being a Mother, she ought to be relieved by her Children. *Gelasius* the second in his distresse 1118, is said to have desired à *Normannica Ecclesia subsidium orationum, & magis pecuniarum*: yet certainly the *Norman* Church did not then at all condescend to any; for the *French* Agent in the *Lugubri querimonia* (of which before) mentions him amongst divers others who, expell'd *Italy*, fled into *France* for succour, yet, *non in aliquo gravaverunt Ecclesiam Gallicanam, nec dando beneficia, nec petendo subsidium pecunie vel armorum, sed spiritualibus armis, scilicet lacrymis & orationibus, quæ sunt arma ministrorum Christi, maluerunt esse contenti*, &c. So that certainly if any collection were made for *Gelasius*, it was so private, publick notice was not taken of it.

8. The first extraordinary contribution raised by allowance

allowance for the Popes use in this Kingdome, I take not to have been before 1183. when *Lucius* <sup>3<sup>us</sup></sup>. at odds with the Citizens of *Rome*, not any ways able to resist their fury, sent to *Henry* the 2. *postulans ab eo & à clericis Angliæ auxilium*. The thing was taken into consideration, and for the precedent, it was not thought fit any thing should be given as from the Clergy, but that they might raise a supply amongst themselves for the King, without permitting a forraign Agent to intermeddle; and his Majesty might with that relieve the Pope as he should see occasion. But take in the Historian his own words. *¶ Consuluit Rex Episcopos suos & clericum Angliæ de petitione summi Pontificis: cui Episcopus & Clerus consuluerunt, ut ipse secundum voluntatem suam & honorem faceret auxilium Domino Papæ, tam pro se quam illis; quia tolerabilius esset, & plus placeret eis, quod Dominus Rex, si vellet, accepisset ab eis recompensationem auxilii illius, quam si permisisset nuncios Domini Papæ in Angliam venire, ad capiendum de iis auxilium; quia si aliter fieret, posset verti in consuetudinem, ad detrimentum regni. Adquevit Rex consilio eorum, & fecit auxilium magnum Domino Papæ in auro & argento.* The judicious reader may observe hence things very remarkable: as, that the King did in points concerned the Pope consult with the English Church, and followed their advise; the great care the Clergy took to avoid any sinister consequence in future, and therefore did themselves give to the Prince, as to whom it was due from them, and not to the Pope, who by custome might come to claim it: as indeed he did after step so far, as to prohibit their giving the King at all, without <sup>q</sup> his license, endeavouring the gaining a supremacy over them as well in Temporalls as Spiritualls, who hitherto had not meddled with collections of that nature.

For the <sup>r</sup> same Henry, about 17 years before, (after th' example of the *French*) did cause a supply be made for

<sup>p</sup> Hoveden  
Ann. 1183.  
fol. 354. b. 43.

<sup>q</sup> De immunitate Ecclesie in Sexto cap. 3. vid. Knighton col. 2489, 37.  
<sup>r</sup> Gervas. Dorobern. Ann. 1166. col. 1399, 7.

for the relief of the Eastern Church ; but I do not find it to have been either upon any motion from *Rome*, or any part of what was so levyed to have been converted that way.

9. But the former granted 1183. passing with so great circumspection, perswaded the Popes not to think fit sodainly (as it seems) of attempting the like; yet that the Church of *England* might not be unaccustomed to paiments, they sometimes exhorted Christians to the subvention of the *Holy Land*, and thereupon did distribute Spirituall Indulgences (which cost them not a farthing) and procured Princes to impose on their Subjects for that end: so did *Clement* the 3. or rather *Gregory* the 8<sup>th</sup>. about 1187. stir up *Hen.* the 2. and *Philip Augustus*, <sup>†</sup> *Innocentius* 3. King *John*: and, as a generall Superintendent over the Clergy, did then intromit himself and his Agents in the raising of it, and so did convert some good proportion to his own use; inso-much as *Iohannes Ferentinus*, sent hither 1206. from the same *Innocentius* 3<sup>us</sup>, <sup>u</sup> carryed hence a good quantity; upon which King *John* writ unto the Pope 1207. *\* quod uberiores sibi fructus provenientes de regno Angliæ, quam de omnibus regionibus citra Alpes constitutis, &c.* Yet truly, to raise any considerable summe of money from the whole body of the Clergy, for support of the Papall designs, I do not find any great attempt before *Gregory* the 1<sup>x</sup>. 1229. <sup>v</sup> demanded a tenth of the moveables, of both Lay and Ecclesiasticks: to which the Temporall Lords would not at all assent, *Nolentes Baronias vel laicas possessiones Romana Ecclesia obligare*; and the Clergy were unwillingly induced to the contribution. The Pope thus entred, meddled no more with the Lay, but of <sup>z</sup> the Clergy eleven years after he demanded by his Legat a *fifth* part of their goods. Many meetings were had about it: <sup>a</sup> they shewed the King, they held their Baronies of him, and could not without his assent charge

f Newbri-  
gealis lib. 3.  
cap. 21. 22, 23.  
¶ c. Hoved.  
Ann. 1187.  
fol. 363. b. c.  
sequenti-  
bus.  
Ger. Doro-  
bern. c. 1522.  
11.  
z Mat. Paris  
Ann. 1201.  
pag. 206, 54.  
Ann. 1202.  
pag. 208. 12.  
u Mat. Paris  
Ann. 1206.  
pag. 214, 33.  
x Mat. Paris  
p. 224, 25.  
y Mat. Paris  
pag. 361, 2,  
49. pag. 362,  
9.

z Mat. Paris  
Ann. 1240.  
pag. 526, 20.  
a Pag. 534, 8,  
39.



charge them; that having formerly given a tenth, this of a fifth might create a custome: and at a meeting in *Barkshire* exhibited sundry solid reasons (too long to be here repeated) against the contribution. But nothing would serve; the King made for it, and th' Archbishop out of private ends paying it, they were in the end forced to yield such a supply, as at his departure the year following it was say'd, <sup>b</sup> there did not remain so much treasure in the Kingdome, as he had in three years extorted from it (the vessells and ornaments of Churches excepted.)

<sup>b</sup> Mat. Paris  
Ann. 1241.  
pag. 549, 21.

10. But neither the paying it with so great reluctancy, nor the <sup>c</sup> Remonstrance prefer'd in the Councell of *Lions* 1245. from the body of the Kingdome, of the severall exactions the Nation lay under from *Rome*, and likewise <sup>d</sup> to the Pope himself the year following, could any way stop the proceedings; but *Innocentius* 4<sup>th</sup>. 1246, <sup>e</sup> invented a new way, to charge every Religious house with finding and paying a quantity of souldiers for his service in the wars for one year: which being required from both the *English* and *French*, produced here those prohibitions in the same Author against raising any *Tallagium* or *auxilium*. But the French caused their Agent to use a serious expostulation in the business; which, because it is not printed, I shall deliver at large as I find it. *Nuncii de novo accefferunt, nova gravamina addentes supradictis: Nuper enim mandavistis Ecclesiis, ut quia persecutor vester ad partes istas venturus est, mittant vobis militiam munitam ad resistendum ei, quia non est concilium cedere venienti; super quo satis excusabiles sunt Ecclesie, quia non habent militiam, nec est in parte eorum mittere quod non habent, quos etiamsi haberent & mitterent, non est tutum confidere de ipsis. Nec scitur etiam de illis, utrum venturus sit, quia etiamsi veniret, praferendum esset (ut videretur) concilio humano concilium Domini, qui dicit, Si persecuti fuerint vos in unam civitatem fugite in aliam, &c.* And in the same year he attempted the

<sup>c</sup> Apud Mat.  
Paris p. 666,  
51.

<sup>d</sup> Apud Mat.  
Paris Anno  
1246, p. 698,  
40, 51, &c.

<sup>e</sup> Ibid. pag.  
701, 56.  
pag. 707, 30.  
pag. 708.

*In* Lugubri  
querimoniâ  
Additament.

Mat. Paris  
MS. de qua  
supra, cap. 3.  
n. 59, 67.

<sup>g</sup> Mat. Paris  
Ann. 1246.  
pag. 707, 2.  
ut si clericus  
ex tunc de-  
cederet inte-  
status, ejus-  
dem bona in  
usus Domini  
Papæ con-  
verterentur.

. Mat. Paris  
p. 730, 16.

. Ibid. Ann.  
1246. p. 715,  
16.

h Rot. Parl.  
30. Ed. 3.  
n. 107.

i Rot. Parl.  
17. Ed. 3.  
n. 39.

k Walling.  
Hist. p. 150,  
30.

l Hen. Knighton  
col. 2583,  
30.

m Rot. Parl.  
20. Ed. 3. n. 33.  
n. 35.

making himself heir to any Clerk that should die intestate; and the year .: following received from the Clergy eleven thousand marks, *exceptis exemptis & tribus clericis*, as an addition to six thousand he had received the .: year before.

11. I shall not here take upon me to repeat all the times and wayes by which the subject had his purse thus drained, the labour would be too great, and the profit too little: it shall suffice to note, the Court of Rome, by much struggling, overcame in the end all difficulties, & did arrive to that height, the <sup>h</sup> Commons were forced in Parliament 1376. to prefer this petition: *Si tost come le Pape voet avoir monoie pur maintenir ses guerres de Lombardy, ou ailleurs pur despendere, ou pur ransson auscuns de ses amys prisoners Fraunceys prises par Englois, il voet avoir subsidie de Clergie d'Engleterre; & tantost celuy est grantez par les Prelats, a cause qe les Ev'esques n'osent luy contrestere, & est leve de Clergie sans lour assent ent avoir devant: Et les Seculers Seigneurs my preignent garde, ne ne font face coment le Clergie est destruit, & la monoye de Royaulme malement emporte.*

12. And indeed the Kingdome had great reason thus to complain: see one of many examples that may be alledged. In the year 1343, the 17. Ed. 3. Clement the 6. sent hither to provide for two Cardinall Priests, one out of the Province of York, the other Canterbury, in spirituall livings, to the value of 1000. marks a piece, <sup>i</sup> *sur une si generale & coverte maniere, qe la somme passera dix mille marques avant qe le doun soit accept.* But the State would not endure this, <sup>k</sup> but chasing their Agents out of the Kingdome, the King sent through every County, <sup>l</sup> *Ne quis ab eo tempore & deinceps admitteretur per bullam, sine speciali licentia Regis:* And a little after, the Parliament held the 20. of Ed. 3. 1346. the Commons yet more plainly, <sup>m</sup> *Nous ne voulons soeffrer qe payement soit fait as Cardinaux, pour lour demoeure en France*

France *de treter*, &c. And soon after they represent this very particular of 2000. marks to be <sup>n</sup> *en anientiffement de la terre*, and *encrese de nos enemies*; and therefore *qu'ils ne soient en nul maniere soefferts*, &c. In both which his Matie. gives them content.

13. Neither did the Papacy, having gained the possession (as I may term it) of taxing, impose these payments for one year onely upon forreign Churches, as at first, but for six successively one after the other. So did <sup>o</sup> *John* the 21. in the year 1277. and <sup>p</sup> *Clement* the 5. in the Councell of *Vienna* 1311. pretending an employment against the Infidells; but procuring Princes to joyn with them in the collecting, that it might be pay'd with more facility, (and therefore gave them either the <sup>q</sup> whole, or part of what was so raised; from whence no doubt grew that proverb so full of infamy, <sup>r</sup> *That the King and Pope were the Lion and Wolf*) did in the end (as we have heard) convert the treasure to the ransoming their friends, the maintenance of their wars, and such like mundane ends. The <sup>s</sup> *French* affirm, the first of their Kings who shared with *Rome* in these levies, to have been *Charls le Bel*, about 1326. which if it were, our Kings were before them; but such as succeeded knew there as well as elsẽwhere, how to apply what was thus gather'd wholly to themselves, wiping the Popes clean out: and notwithstanding all <sup>t</sup> complaints in that kind from *Rome*, <sup>u</sup> *Duarenus* observes the Crown of *France* to have none more certain or speedy revenue, then that is thus raised of the Ecclesiasticks.

14. But these exactions grew so burthensome, *Martin* the 5<sup>th</sup>. at <sup>x</sup> the Councell of *Constance* 1417. was constrained to establish, *Nullatenus imponantur generaliter super totum clerum, nisi ex magna & ardua causa, & utilitate universalem Ecclesiam concernente, & de consilio & consensu & subscriptione fratrum nostrorum, sancta Romana Ecclesie Cardinalium & Pralatorum, quorum con-*

<sup>o</sup> *Winn*  
Thorne col.  
1926, 27.  
<sup>p</sup> *Waling.*  
*Hist.* p. 73, 3.

<sup>q</sup> *Vide Mat.*  
*Paris Anno*  
1252. p. 849,  
12.  
<sup>r</sup> *Ibid.* *Anno*  
1255. p. 917.  
39.  
<sup>s</sup> *Chronicon de*  
*Regibus Fran-*  
*corum ad fi-*  
*nem Pauli*  
*Emilii,*  
*Anno* 1326.  
<sup>t</sup> *du Tillet*  
*in Chronico.*

<sup>u</sup> *Vide Hist. del*  
*concil. Trident.*  
*in 4<sup>to</sup>, lib. 5.*  
*p. 408.*  
<sup>v</sup> *De benefi-*  
*ciis lib. 7. c. 1.*  
*in fine.*

<sup>x</sup> *Concil. Con-*  
*stant. Sess. 13.*  
*de Decimis*  
*& aliis one-*  
*ribus: concil.*  
*gen. Romæ,*  
*pag. 279. &*  
*pag. 297.*

y Herbert.  
Hist. Hen. 3.  
pag. 57. p. 59.  
E. Full. jive  
Epistola Leo-  
nis de eadem  
re, quas vidi  
manuscr.  
26. Hen. 8.  
607. 3.

*filium commodè haberi poterit; nec specialiter in aliquo regno vel provincia, inconsultis praelatis ipsius regni vel provinciae, &c.* Upon which Decree a supply of the *Tenth* being y twice demanded, viz. 1515, and 1518. by Leo the xth. against the Turk, th' English Clergy denyed them both times. Thus the Papacy by little and little gained in England the power of sometimes laying that Tax on Church-men, is to this day known by the name of a *Tenth*, which became limited, as we have seen; and after by statute the 26. Hen. 8th. transfer'd to the King to be pay'd annually unto him; as were likewise the *First fruits* or profits of one year, commonly called *Annats*, (for I take them to be the same) of all spirituall livings: of which a word.

15. The first raising of them seemeth to have been, that when the Court of Rome did confer on Clerks and Chaplains residing with them, benefices in the Dioceses of others, they who thus obtained from that Chair not onely the Spirituall, of Ordination, but likewise the Temporall of Profit, did at first, either to shew their gratitude, or for that the Pope would have it so, voluntarily give the whole, or some part of the first years revenue to the Court, by whose favour they received all: and the Papacy perceiving the gain did thus accrue, laboured to extend it farther; was in some sort imitated by other Bishops; and for avoyding the shew of Simony, cover'd what was thus took with the names of *Annates*, *Vacantiae*, *Minuta servitia Scriptura*, and such like. But as St. Gregory a tolerating onely a liberality to be given after the reception of the *Pall*, his successors knew how to turn it to a revenue; so these, however at first begun, did afterwards become annually a profit. What

a Minuta  
servitia were  
small pay-  
ments, such as  
had any expe-  
dition in the  
Court of  
Rome were

lyable unto, as fees to certain Officers or servants of the Pope, called therefore familiares Dni. Papæ: as of late, such as renewed leases of the Archbishop of Cant. did to his Secretaries, and others of his retinue. 1389. there was payed 4 of these to the Pope, and one to the dependents on the cardinals. Thorn. 2194. 31. the rest have no difficulty. a Lib. 4. Epist. 44. Indist. 13.

others

# Chap. IV. of the Church of England. 85

others did in this kind, is not necessary to that I treat of; but upon the practice of the Church of Rome, the 25. Ed. 3. the Commons <sup>b</sup> exhibit this petition to the King: *Prie sa Commune, &c. de veer & regarder, &c. Comment le Pape ne soloit avant ces heures faire reservations de nul benefice de saint Eglise, si l ne fust de benefice de ses Chapleyns, ou de ses Clerks qe moreront en la Court de Rome; & ore tard & de novel pur covetise d avoir les primers fruiets, & les autres profitz qe endependent, ad reservee & reserve de jour en autre a sa collation generalement & especialment, si bien Abbeies & Priories, come toutz les autres grantz beneficez d Engleterre qe sont de Patronage espiritel, & generalement il ad reservee ore tard toutes les dignites d Engleterre, & Provendres en Esglises Cathedralles, & les donne si bien as Aliens come as Denezains, & isint ad le Pape toutz les primers fruiets des dits benefices.* By which it appeares, the Papacy, that formerly took the first-fruits of onely such livings as men dyed posselt of in the Court of Rome, had an intent of extending them to all were de Patronage espiritel: but whether an active King stopt upon this the endeavours of that Sec, or the Popes, wise men, thought it not fit to make too sodain an irruption into the profits of other Churches, is not greatly materiall; <sup>c</sup> but 25. years after, the Commons again represent the Popes Collector, *Ore de novel cest an & ne le prest iunges devant al oeys du Pape les premiers fruitz de chescun benefice, dont il fait provision ou collation, except de graces grantez aux poves, ou il ne soloit prendre nulles fruietes forsque soulement des beneficez vacantz en la Court de Rome.*

16. But in whose time these first-fruits began to be taken, there seems to me some difference amongst writers. *Theodoricus à Niem* (who lived in the Court of Rome, Secretary as some write to Gregory the xi. or rather, as it seems to me, of Urban the vi.) <sup>d</sup> sayes, *Boniface the ix. circa decimum annum sui regiminis, viz. 1399.*

<sup>b</sup> Rot. Parl.  
Oliv. Purif.  
25. Ed. 3. n. 13.

<sup>c</sup> Rot. Parl.  
50. Ed. 3.  
n. 109.

<sup>d</sup> De schismate  
inter Urbanum  
6. &c.  
lib. 2. cap. 9.

*primos fructus unius anni omnium Ecclesiarum Cathedra-  
lium & Abbatiarum vacantium sue camerae reservavit,  
ita quod quicumque extunc per eum promoveri voluit, ante  
omnia cogebatur solvere primos fructus ecclesie, vel mo-  
nasterii cui praeberi voluit, &c.* With whom <sup>e</sup> Platina  
agrees; *Annatarum usum primus imposuit,* (Bonifa-  
cius ix.) *hac conditione, ut qui beneficium consequere-  
tur, dimidium annui proventus fisco Apostolico persolve-  
rent: sunt tamen qui hoc inventum Iohanni xxii. ascri-  
bunt, &c.* The same likewise <sup>f</sup> Polidore Virgil affirms,  
though he speak as if some thought them of an higher  
time, which under favour I do not credit; for <sup>g</sup> Nicho-  
laus Clemanges, in the treatise he writ concerning them,  
saith, that when such reservations fell into considera-  
tion in the Councell of Constance (he lived whilst it  
sate) no beginning could be assigned before Iohn the xxii.  
began them, *pro certo passagio ultramarino, & quibus-  
dam aliis necessitatibus suis.* To which I may adde the  
opinion of the wise and learned <sup>h</sup> Cardinall d'Osset:  
Iehan xxii. François de nation, dont il me deplaist, fust le  
premier que outre les taxes & Annates qu'il inventa, &c.  
And Ranulphus Cestrensis, one of that time, <sup>i</sup> saith  
of him, *Beneficiorum per mortem seu resignationem va-  
cantium, sive per translationem, primos fructus refer-  
vavit, ita ut Rector institutus taxationem beneficii sui  
aut residuum taxationis acceptaret: ex qua cautela innum-  
erabiles thesauri ad manus Papae devenerunt, &c.* and  
Knighton himself, <sup>k</sup> reservavit curiae omnes primos fructus  
vacantium Ecclesiarum, sive per mortem sive per re-  
signationem, &c. <sup>l</sup> Wallingham 1316. Summus Ponti-  
fex reservavit camerae suae primos fructus beneficiorum  
omnium in Anglia per triennium vacantium: which not  
occurring of any Pope before, I cannot ascribe other  
to have begun them then he; who though, in a <sup>\*</sup> bull  
dated the 5. January 4. Pontificatus, he mention *Fructus  
redditus, proventus, primi anni beneficiorum,* yet by the  
doubts

<sup>e</sup> Platina in  
Vita Bonifa-  
cii ix.

<sup>f</sup> De invent.  
verum lib. 3.  
cap. 2.  
<sup>g</sup> Tract. de  
Annatis non  
solvendis, in  
fasciculo re-  
rum expens.  
& fugiend.  
fol. 189. Et  
inter opera ejus  
pag. 82. col. 2.  
<sup>h</sup> Epist. 296.  
Romae 22 De-  
cembr. 1601.

<sup>i</sup> Polychron.  
lib. 7. cap. 42.  
apud Hen.  
Knighton  
col. 2534, 8.

<sup>k</sup> col. 2565,  
47.

<sup>l</sup> Hist. Anno  
1316. p. 34,  
45.

<sup>\*</sup> De praebendis  
& dignitati-  
bus cap. 11.  
extravagant.  
commun.



## Chap. IV. of the Church of England. 87

doubts he there resolves, shews the practice of them then newly brought into the Church. But whereas the <sup>m</sup> writers before-named agree, the *English*, of all Nations, never received in this the full extent of the Papall commands, I conceive it to arise from the good Laws they made against them: of which before, and after.

<sup>m</sup> Clemanges, Platina, Polidor.

17. It is hardly credible how great a masse of treasure was by these wayes sent hence into *Italy*. <sup>n</sup> The revenues th' *Italians* were posselt of in *England* 1245. are accounted not lesse then 60. thousand Marks; <sup>o</sup> 1252. it was thought they did amount to 70. thousand (all which for the most drained thither :) and in P the Parliament held about an hundred years after, the Commons shew, what went hence to the Court of Rome, *tourne a plus grand destruction du Royaume qe toute la guerre nostre Seigr. le Roy*: yet, notwithstanding so many statutes as were made by that Prince, for moderating the excesses in this kind, the 50<sup>th</sup>. they complain, (I shall give it contractedly) <sup>q</sup> the Popes collector here held a receipt equall to a Prince or Duke; sent annually to Rome from the Clergy, for Procuration of Abbeys, Priories, First-fruits, &c. xx. thousand Marks, some years more others lesse, and to Cardinalls and other Clerks beneficed in England as much, besides what was conveyed to English Clerks remaining there to sollicite the affairs of the Nation: upon which they desire his Ma<sup>y</sup>, no collector of the Pope may reside in England.

<sup>n</sup> Mat. Paris Ann. 1245. pag. 658. 49. <sup>o</sup> Ibid. pag. 859. 48. <sup>p</sup> Rot. Parl. Offav. parif. 25. Ed. 3. <sup>n</sup> 13. tent. Ann. 1351.

<sup>q</sup> Rot. Parl. 50. Ed. 3. n. 105. 106.

18. But the King, as it seems, nor greatly complying with their desires, the <sup>r</sup> year following they again instance, that certain Cardinalls, notorious enemies, had procured a clause d'anteferti to certain benefices, within the Provinces of Canterbury and York; that the Popes Collector was as very an enemy to this State as the French themselves; that his house-keeping here at the Clergies cost was not lesse then 300<sup>l</sup>. by the year; that he sent annually

<sup>r</sup> Rot. Parl. 51. Ed. 3. n. 78. 79.

\* a la foiz  
xx. Mill.  
maces; a la  
foiz xx. Mill.  
lib.

nually from hence beyond Seas \* at one time 20 thousand marks, sometimes 20. thousand pounds; and what was worse, espied the secrets of the Kingdome, vacations of benefices, and so dayly made the certainty known to the said Court; did now raise for the Pope the first-fruits of all dignities and other smaller promotions, causing by oath to pay the true value of them, surmounting the rate they were formerly taxed at: which now in the very beginning ought to be crusht, &c. Upon which considerations they desire, all strangers, Clerks and others (excepting Knights, Esquires, Merchants, Artificers) might sodainly avoid the Kingdom; no subjects, without the Kings expresse licence, to be Proctors, Attorneys, Fermors to any such Alyen, under the pain, after Proclamation made, of life, member, losse of lands and goods, and to be dealt with as theeves and robbers; no money during the wars to be transported out of the Kingdom by exchange or otherwise, on the forfeiture of it. But to this the answer onely was, *Setteignent les estatutz & ordonances ent faites.* Whereupon the next Parliament the Commons prefer'd again three Petitions, touching I. The paiement of \* First-fruits taken come due a la chambre nostre seint Pere, yet not used in the Realme before these times, was contrary to former treaties with the Pope, &c. II. Reservations of benefices. III. By that way bestowing them on Alyens, who sundry times employed the profits of them towards the raunsoming or araying their friends, enemies to the King. Of all which they desire his May. to provide remedy; as also that the Petitions the two last Parliaments (of which before) might be consider'd, and convenient remedy ordained. To which the answer is, *Les Seigrs du grand conseil ordeigneront due remedie sur les matires comprises en ces trois billes precedentes.* And here I take the grand Councell to be the Privy Councell, not the Lords in or out of Parliament; called the grand Councell for the greatnesse of the affairs fell within their cognizance, and

f Rot. Parl.  
I. Ric. 2.  
n. 66, 67, 68.  
\* What each  
Bishop payed  
to the See of  
Rome at his  
entrance for  
First-fruits,  
vide God-  
win. Catal.  
in fine unius  
cujusque  
Episcopatus.

## Chap. IV. of the Church of England. 89

and<sup>t</sup> named the 5. of Hen. the 4. to consist onely of six Bishops, one Duke, two Earls, and other in all to the number of 22.

19. What order they establisht, I have not met with; it is manifest not to have been such as gave the satisfaction hoped for, by the Commons<sup>u</sup> renewing in effect both 3<sup>o</sup>. and 5<sup>to</sup>. Ric. 2. the same suites: and the inconveniences still continuing, \* in the year 1387. 10. Ric. 2. William Weld was chosen Abbot of S. Augustins (in the place of Michael newly dead,) who troubled with a quartan ague, the French and Dutch on the seas, the King inhibited his going to Rome for confirmation, &c. Hethereupon employs William Thorn, (from whose pen we have the relation) hoping to be excused himself of the journey; who .∴ shewing the sufferings of the house, the miserable state he must leave it in, that he would expose it *irrecuperabili casui & ruina*, that the King had commanded his stay, was in the end told by the Pope (after all means he could use) .∴ *Rex tuus precipit quod non veniat electus ille, Ego volo quod compareat & examini se subjiciat*: and again, after yet more earnest sollicitation, *quia audivimus turbationem inter Regem & Barones suos*, (the fittest time to contest with a prince) & *multa sinistra de persona electi, & quod cederet Romana ecclesia in* .∴ *præjudicium, absque personali comparitione non intendimus ipsum confirmare, ne daretur posteris in exemplum*. The cause hanging three years in suspense, the Abbot in fine was forced to appear in Rome for his benediction, and returned with it not to his house till about the end of March 1389. the 12. Ric. 2. After which, the next y Parliament obtained the statute of *Premunire*, against the Popes conferring any Benefice within the said Kingdome from the 29 of January then ensuing; and no person to send or bring any summons, or sentence of excommunication against any for the execution of the same law, on the pain of being arrested, put

Rot. Parl. 5.  
Hen. 4. n. 37.  
vide 10. Ric.  
2. n. 20.

13. Ric. 2. n. 6.  
7. Hen. 4.  
n. 31. 11 Hen.  
4. n. 39.

u Rot. Parl.  
3. Ric. 2. n. 37.  
c. cap. 3. c.

Craft. anima-  
rum. 5. R. 2.  
n. 90, 91.  
xWm. Thorne  
col. 2184. c.

sequens.  
∴ col. 2186,  
40.

∴ col. 2187,  
62.

∴ cap. 3. n.  
13. 14.

y 13. Ric. 2.  
cap. 2. c. 3.  
stat. 2.

in prison, forfeiture of his lands, renelements &c. and incurring the pain of life, member, &c. The intent of which law .*Polidori Virgil* rightly interprets to have been, a confining the Papall auctority within the Ocean, and for the frequent exactions of Rome, *ut nulli mortalium deinceps liceret pro quavis causa agere apud Romanum Pontificem; ut quispiam in Anglia ejus auctoritate impius religionisque hostis publice declararetur, neve exequi tale mandatum si quod ab illo haberet, &c.* To which law three years after some other .*additions* were made: and none of these were ever repealed by Queen *Mary*, who though she did admit a union with the Church of Rome, yet in restoring the Popes Supremacy the State used so .*great caution*, as it ever seemed to me rather a verball then reall admission of his auctority; which it seems her Majesty well understood, in that she would never permit *Peitoto* to appear before her in the quality of either Cardinall, Bishop, or Legat, to all which he was preferred by *Paulus 4.* But where .*some would excuse* these and such like laws, as past by *consent and toleration from Rome*, or at least by the *importunity of the Lay*; that I have said doth enough shew the Papall care, in suffering nothing, they could stop, might any way prejudice that See. And for the Bishops passing the 16 Ric. 2. pressed by the Temporality, it is so much otherwise, as that Statute is enrolled on the desire of the Archbishop of Canterbury, Rot. Parl. 16. Ric. 2. numero 20. in fine.

20. In the same Parliament, the Commons, as it seems, much exasperated against the Popes collectour, do yet farther *petition*, he may have the warning of fourty daies given him to be gone out of the kingdome, *sur peine d'estre pris come enemy du Roy & ranceone; & ge desore en avant nul collectour soit democrant deinz le Rôyalme d'Engleterre, s'il ne soit lige du Roy, & ge mesme cestui face nul rien a contraire de l'estatute de Provisors fait en cest present Parlement, sur peine de vie & de membre,*  
*san*

.*In Ric. 2.*  
*bist. lib. 20.*  
*pag. 417. 32.*

.*16. Ric. 2.*  
*cap. 5.*

.*1. & 2. P.*  
*& M. c. 8. see*  
*Cook Inst. 3.*  
*pag. 127.*

.*Catholic*  
*Divine his an-*  
*swer to Sr. Ed.*  
*Cook, cap. 12.*  
*n. 37. 49. pag.*  
*305. 311.*

*2 Rot. Parl.*  
*13. Ric. 2. n.*  
*43.*

*sanx perdon, considerant les meschiefs & damages qe les Collectours estranges ont faitz deinz le Royalme devant ces heures.* But to this the answer only is, *Le Roy s'advisera.*

21. After these petitions and laws, however they sufficiently barr'd the Court of *Rome* from meddling with this Church, and enough shewed the right of the Kingdome in reforming of it self, and redressing all inconveniences came unto it from beyond sea; yet the King having a power of dispensing with those statutes, this mischief ensued: divers who easily obtained letters of provision to a good benefice from the Papacy, sued to the King (who held fair correspondency with the Popes) that they might put his bulls in execution; who delayed his concessions sometimes a year or longer, after the vacation of the living, during which the Ordinary had admitted some able person into the place, who then began to be disturbed: for prevention of which, the <sup>a</sup> statutes of 7. *Hen.* 4. and 3. *Hen.* 5. were made, that no licence should be available against any possessor of a living at the day of the date thereof, and farther to make void all so granted. After which the contract, too long to be here inserted, between *Martin* the 5. and the *English* Church, for settling severall disputes of Ecclesiastick cognizance, as of uniting benefices, consolidations, &c. was concluded; in which the Papacy seems to permit such particulars to the *English* Clergy, as they would not be restrained in, though formerly claimed not to be exercised but by his auctority. Yet the 8. *Hen.* 5. n. 10. the Commons petition, *que nul persone, de quel estate ou condition qu'il soit, ne amesne &c. hors du Royalme d' Engleterre---- or ne argent pour marchandise de seinte Esglise, ou autre grace ou priviledge d' seinte Esglise avoir, ne pour autre cause queconque, &c.*

22. It would be here tedious, and not greatly pertinent, to repeat all the provisions made in this kind, for the well-governing the Clergy of this Kingdome, and preserving of them free of destruction from abroad;

a 7. *Hen.* 4.  
cap. 8. 3. *Hen.*  
5. cap. 4.

Concordata inter  
Martinum 5.  
& Ecclesiam  
Anglicanam  
in Actis publi-  
cis Archiepisc.  
or in Biblio-  
theca Cotton.  
Manuscr.

which yet were never such, but the Pope and his officers did export a great quantity of treasure from them. *William Thorne* hath recorded the disbursements to the Court of *Rome* at the election of *Michael* Abbot of Saint *Augustine* 1375. not to have been lesse then 42 8<sup>l</sup>.—17<sup>s</sup>.—10<sup>d</sup>. beside the expence of such as were sent, and what was paid for the loan of mony to make these payments, viz. 130<sup>l</sup>.—18<sup>s</sup>.—2<sup>d</sup>. Our Historians <sup>b</sup> observe, in the Parliament held 1532. 23 *Hen.* 8. it was computed, the Papacy had received out of *England* for only the Investitures of Bishopricks, in the fourty years last past, an hundred and sixty thousand pound sterling, which is four thousand pound by the year: an incredible summe, considering the poverty of the Realm for lack of silver, the weight of the mony then currant, and the strict laws of former Princes against such like transportations.

23. Thus having shew'd the beginning of the Papall authority with us, and how from the generall power all Bishops received from *Christ*, and the fatherly care such as were instrumentall in the conversion of a people did carry to them as their spirituall children, and the obedience they likewise yielded to their ghostly fathers, the Pope began by steps (as I may say) to exercise a dominion over the Clergy here, and not stopping there, upon various pretences, by severall waies, and (as it appears) degrees, to become so far lord of their Temporalls, that they might not dispose of them, well, contrary to his liking, because he had the sole rule of all committed to him from *Christ*: the first point I conceive sufficiently proved, viz. that what was gained thus by great industry, at sundry times, by severall means, could no way speak his superintendency over this Church *jure divino*.

The second point remains, whether our Princes, by the advise of their Clergy, had not authority to cause them reform this Church, without any new assumption of power, not formerly invested in the Crown:  
which

<sup>b</sup> *Antiquitat. eccles. Britann. in vita Cranmeri* pag. 381. 2. edit. 1572. Hall 24 *Hen.* 8. fol. cciii. a. Herb. in *Hen.* 8. p. 330.



which leads me to shew what the Regall power *in sacris* was here held to be, before *Hen. the 8.* and *Rome* divided each from other.

C H A P. V.

*How far the Regall power did extend  
it self in matters ecclesiasticall.*

1. **B**Efore I enter into the dispute of the right the kings of *England* did exercise in the regiment of this Church, I hold it not unnecessary to see, in what Divines hold ecclesiastick auctority doth consist. <sup>a</sup> *Bellarmino*, <sup>b</sup> *Turrecremata* and others divide spirituall power into *Ordinis*, which they refer to the administration of the Sacraments; and *Jurisdictionis*, which they hold double, *internall*, where the Divine by perswasions, wholesome instructions, ghostly counsell, and the like, so convinces the inward conscience, as it is wholly obedient to his dictates, such as those of *St. Peter* were *Acts ii. 37.* and *externall*, where the Church *in foro exteriori* compells the Christians obedience. Now for the first and second of these, the King did not take upon him at all to meddle: for he neither assumed to himself a power of preaching, teaching, binding, or loosing *in foro anima*, administering the holy Sacraments, conferring Orders, nor to any particular is properly annexed to them; only to such things as are of the outward policy of the Church, as that God may be truly served, such as transgresse the received lawfull constitutions even of the Church, fitly punished, by the right of his Crown, the continued practice of his Ancestours, he could not doubt but he might deal in, causing all others, be they Clerks or other, that offend, to suffer condigne punishment.

<sup>a</sup> De Romanis Pontif. lib. 4. cap. 22. §. 1.  
<sup>b</sup> Sum. Eccles. lib. 1. cap. 93, 96.

2. For the better understanding how far the ecclesiastick rule of our Princes did extend, we are to know, they were never doubted to have the same within their dominions, *Constantine* had in the *Empire*; and our Bishops to have that *St. Peter* had in the Church. *Ego Constantini, vos Petri gladium habetis in manibus*, said King *Edgar* to his Clergy, in that his speech so <sup>c</sup> recommended to posterity. And therefore, as after the Christian magistrate began to have government, affairs of most concernment in the Church (as is <sup>d</sup> said) had their dependence on the Emperour, the greatest Synods called by him, and the holy men of those times did not doubt the continuing to him the title of *Pontifex maximus*, as <sup>e</sup> *Baronius* notes, *sine ulla Christianitatis labe*; and as <sup>f</sup> *Constantine* did esteem the Ecclesiasticks *ἡ ἐκκλησία*, but himself *ἡ ἐκτὸς τοῦ τοῦ Θεοῦ καὶ ἀποστολῆς ὁρίσασθαι*, them for things within, but himself for matters without by God appointed a Bishop: so the same King *Edgar*, <sup>g</sup> no less to be remembred by the *English* then *Charls* the Great by the *French*, was <sup>h</sup> solicitous of the Church of his Kingdom, *veluti Domini sedulus Agricola*, and *Pastorum Pastor*, was reputed and writ himself the *Vicar of Christ*, and by his <sup>h</sup> laws and Canons assured the world he did not in vain assume those titles, and yet *sine ulla Christianitatis labe*, so far as antiquity ever noted.

3. What particulars those were the Emperours did hold *ἡ ἐκτὸς τοῦ τοῦ Θεοῦ καὶ ἀποστολῆς ὁρίσασθαι*, to be without the Church, belonging as I may say to their *Episcopacy*, nothing can better teach us then their commands yet remaining in the laws they publisht; as in *Cod. Theodos. de feriis, de nuptiis, &c. de fide catholica, de Episcopis eccles. & Clericis, de Monachis, de Hereticis, de Apostatis, de religione, de episcopali judicio, &c.* *Cod. Iust. lib. 1. Tit. 1. 2, 3, 4, 5.* & passim in eo: and in the Novells, *Novel. 6. Quomodo oporteat episcopos & ceteros clericos ad ordinationes perduc.* *Novel. 137. de ordinatione Episcoporum & Clerico-*

rum.

<sup>c</sup> apud Ailredum col. 361, 16.  
Beato Tero  
cujus vicem  
Episcopi gerunt. Capitul.  
Carol. & Ludovic. lib. 5.  
<sup>e</sup> ap. 163.  
<sup>d</sup> Socrat. prolog. ad lib. 5.  
Hist.  
<sup>e</sup> 10 m. 3. Anno 312. n. 100.  
<sup>f</sup> Euseb. de vita Constantini lib. 4. cap. 24.  
<sup>g</sup> Flor. Wigorn. Anno 974. p. 360.  
<sup>h</sup> Regularis concordia &c. notis Seldeni ad Eadmer. pag. 146. 16.  
<sup>h</sup> 155, 6, 15.  
<sup>h</sup> Concil.  
Spelm. pag. 437. cap. 7.  
pag. 438. cap. 8.  
Vide leg. Edwardi cap. 17.  
<sup>h</sup> Concil.  
Spelm. a pag. 441. ad pag. 476.

rum. The prefaces to which two laws are remarkable: the first shewing the Priestly office is *Divinis ministrare*, and the Princely, *maximam habere sollicitudinem circa vera D. dogmata, & circa sacerdotum honestatem*, &c. the other beginning thus, *Si civibus leges, quarum potestatem nobis Deus pro sua in homines benignitate credidit, firmas ab omnibus custodiri ad obedientium securitatem studemus, quanto plus studii adhibere debemus circa sacrorum Canonum & divinarum legum custodiam?* And accordingly Novel. 123. in 43 chapters he did establish many particulars pertaining to the government of the Church and Churchmen; and Novel. 131. not only 1 appointed the observance of the four first generall Councils, but <sup>m</sup> decrees the place or precedency of the Pope of Rome and Archbishop of Constantinople should be according to their definitions above all other seats, and how far the Dioceses of some Chairs by him newly created should extend, besides other points in severall chapters to the number of 15, treating of particulars solely held now of ecclesiastick cognizance; as did likewise *Charls* the Great, and *Ludovicus Pius* in their capitulars in very many places. But with these I have not took upon me farther here to meddle, then by naming some, to shew, they having been practis'd by Emperours, the Kings of England, endowed from above with the same auctority in ecclesiasticis, might very lawfully within their dominions exercise the like: the question therefore will be, what they did understand their power in the Church to be, and accordingly how far they did extend it in use.

4. As for the first, nothing can speak more clear then what themselves publisht on mature and sad deliberation, yet remaining in their laws; in which we find the Regall office thus <sup>n</sup> described: *Rex, quia vicarius summi Regis est, ad hoc est constitutus, ut regnum terrenum, & populum Domini, & super omnia, sanctam veneretur ecclesiam ejus, & regat, & ab injuriis defendat*: and a lit-

1 cap. 1.

m 6. 2. 3, 4.

See Novel.

146.

n Leg. Edw.  
Consec. cap. 17.  
p. 142.

tie

tle after, *Debet Rex Deum timere super omnia, & diligere, & mandata ejus per totum regnum suum servare; debet etiam sanctam ecclesiam regni sui, cum omni integritate & libertate, juxta constitutiones patrum & predecessorum, servare, fovere, manutenere, regere, & contra inimicos defendere, ita ut Deus praeter ceteris honoretur, & praeter oculis semper habeatur, &c.*

o Leg. Canut.  
cap. 11. pag.  
109. Iorval.  
capite 31.  
col. 923. vide  
cap. 25. pag.  
106. Iorval.  
cap. 23.

p Leg. Ina in  
presat. pag. 1.  
apud Iorval.  
col. 761, 41.

\* rapla  
Saxon.

Canutus, o Nobis omni ope atque opera enitendum erit, qua potissimum ratione ea exquiramus consilia, qua ad Reipublicae pertinent utilitatem, pietatem confirment Christianam, atque omnem funditus injustitiam evertant, &c. Iorvalensis renders it, quomodo possit—recta Christianitas propensius erigi.

Ina, p In magna servorum Dei frequentia religiose studbam, tum \* animorum nostrorum saluti, tum communi regni nostri conservationi; which Iorvalensis reads, sollicitus de salute animarum nostrarum & de statu regni, shewing the care both of his subjects souls and bodies, however after a differing way, did in some measure pertain unto him.

5. Neither did these expressions passe only from the worst of our Kings; but from Ina, Rex maxime pius, as q Baronius styles him; from Canutus, who not only himself 1031. went in devotion to Rome, but was acknowledged t erga ecclesias atque Dei servos benignissimus largitor; Edward the Confessor, a canonized Saint; famous for being the best Kings and holiest men: who did not only leave us in their laws the Kings part, but what they conceived likewise the Bishops was, viz. to be f Dei praecoines, divini juris interpretes, that they were rerum divinarum commoda predicare palam, that for and to the people they should vigilare, excubare, proclamare, &c. as those that t contra spirituales nequitias debent populo praevidere, by letting them know, qui Dei praeceptis obedire neglexerit, hic cum ipso Deo commune non habeat. And this is that sword of St. Peter mentioned by King

Ed-

q tom. 9. Anno  
740. n. 14.  
See Hunt, fol.  
194. 30. 42.  
t Fubbert.  
Carnotensis  
epist. 97. fol.  
93. a. edit.  
Paris. 1608.

f Leg. Canut.  
cap. 26. pag.  
106. apud  
Iorval. cap.  
24. col. 922,  
17.

t Sequor in re-  
liquis Iorva-  
lensem,

# Chap. V. of the Church of England. 97

*Edgar*, which when the holy Bishops of the primitive times did only put in execution, they neither found Princes backward in supporting their designs, nor people refractory to their exhortations. Thus we see, as they declared the office of a King, they were not silent in that of a Bishop, shewing how either laboured in his way the reducing people to piety, and a vertuous life; the one by making good laws for compelling the wicked, the other by giving such instructions as convinced the inward man.

6. So that we often meet with the Prince extending his commands to the same things the Priest did his persuasions : as

I. In point of Sacraments, \* That children should be baptized within 30 days after birth. *Leg. Inæ cap. 2. pag. 1.* n Jorval. cap. 2. col. 761.

II. And, because it seems some Priests were negligent performers of that duty, \* That such as were not prepared, or denied the baptizing of them, should be punished. *Leg. Ed. & Guthruni cap. 3. pag. 42. excerptiones Egberti cap. 10, 11, 12. in concil. Spelm. pag. 259.* where you may observe the Kings precept to impose on the transgressor the payment of 12 y ora, but the Bishops to be onely persuasive. y what Ora was, see Mr. Sumners Glossary.

III. No person to be admitted to the Eucharist, be a Godfather, receive confirmation from a Bishop, not knowing the *Pater Noster* and *Belief*. *Canones dati sub Edgardo & legibus ejus annexi, cap. 17. 22. p. 67. & 3 Leg. Canuti cap. 22. p. 105. Spelm. Concil. cap. 22. pag. 599.* 3 Jorval. cap. 23. col. 921. 57.

IV. That persons instructed should receive the Communion thrice every year. *a Leg. Canut. cap. 19. p. 104.* a Jorvalensis cap. 21. col. 921. 57.

V. Restrained by their laws matrimony to the 6th degree of consanguinity. *b Leg. Canut. cap. 7. p. 101.* b Apud Jorval. cap. 11. co. 919

VI. Reserved to themselves a liberty of dispensing with the marriage even of Nuns. *c Leg. Alured. cap. 8. p. 25.* And it is not to be forgot, in that particular, *Lanfrank* joyns the Kings advise (as a person of equall power) with his own, .: & hoc est, saith he, *consilium Regis & nostrum.* c Jorval. cap. 9. col. 823. .: Lanfranc. Epist. 32.

VII. Commanded th' observance of Lent *principali auctoritate*. Beda lib. 3. cap. 8.

d Iorvalensis  
cap. 50. col.  
826, 60.  
e Iorval,  
cap. 67, 68,  
69, 70, 71,  
72. col. 927.  
vide ibidem  
col. 920. cap.  
17, 18, 19,  
20. Thorn  
col. 2197, 15.

VIII. Appointed certain daies to be held festivall by the better sort, but allowed the servant and labourer to work in them. <sup>d</sup> Leg. *Aluredi* cap. 39. pag. 33. which the laws of *Canutus* seem after to take away. <sup>e</sup> Leg. *Canut.* cap. 42, 43. pag. 118. See there pag. 103. cap. 14, 16, 17. which was likewise exercised 1393. by *Richard* the 2.

I omit here their edicts for the observation of the *Lords day*, payment of *Tythes*, *Incontinency*, and such like, (held now merely of Ecclesiastick cognizance) for the multiplicity of them.

IX. Divided old, and erected new Bishopricks. Beda lib. 3. cap. 7. lib. 4. cap. 12. lib. 5. cap. 19.

f de eccles. lib.  
4. cap. 8. §.  
Nota tertio.

And yet this is that <sup>f</sup>Cardinall *Bellarmino* holds a point of so high concernment, no man can do it without auctority obtained from *Rome*: which yet we never read to have been asked, .: though *Theodore* 679 erected five (*consensu Regis*) at one time; and some other altogether without the Popes liking, as those in the North, after th' expulsion of *Wilfrid*. Confer Beda lib. 4. cap. 12. cum libro 5. cap. 20. But of this before.

.: Florent.  
Wigor p. 559.

X. Caused the Clergy of their Kingdome to meet in councils. *Malms. fol.* 26. a. 38. and sometimes presided themselves in them, though the Popes Legate were present. *Concil. Spelm.* pag. 292, 293. pag. 189, & passim ibid. *Vita Lanfranci* cap. 6. col. 1. pag. 7. Vide *Florent. Wigorn.* An. 1070. pag. 434.

7. Of the Crowns commanding in these particulars, it is apparent to have been in possession, the Pope seeing and not interrupting any whit, whilst the *Saxon* and *Dane* bare here the sway; when, to speak truth, it seems to me not so much to have been insisted on, by whose auctority the thing commanded was done, as a care taken of all sides nothing should be required but just, and pious; which



which made each precept, without dispute, from what author soever it proceeded, be readily yielded unto: and so the Normans found it, under whom the first contentions (concerning jurisdiction) with the See of Rome began. For before William the first possess himself of this Crown, it is certain, the English Bishops had no ordinary Courts distinguish'd from the Lay, but both secular and ecclesiastick Magistrate sate and judged together, what pertained *ad observantiam religionis locis suis, & à sua diœceseos synodis*; as was likewise the custome \* in France.

8. This were enough manifest, in that we find the Lay not only present, but subscribers to many of our ancient & councils; did not the laws of <sup>h</sup> Ethelstan; <sup>i</sup> Edgar; <sup>k</sup> Canutus farther assure us. It is probable, inferior judicatures did refer matters of doubt to the greater Courts or *cypnegemot*, to be held twice a year, as the former edicts and <sup>l</sup> some Councils did establish: which produced that care in the Council of <sup>m</sup> Celichyth 816. the Bishop should transcribe judgements given *in qualicunque synodo* of what pertained to his diocese, and he to keep one copy, and the party whom it concerned another of such determination (which I take to be those laws mentioned by <sup>n</sup> Eadmerus, which as they were reposed in some parts of the Church, so were the pleas (as it seems) usually <sup>o</sup> there held.) But the Conqueror, finding these proceedings to be *non bene, neque secundum sanctorum canonum precepta*, &c. did by his Charter make a distinction of the Courts, that such as were convened by the Bishop should answer *non secundum Hundred, sed secundum canones & episcopales leges* &c. The Charter to Remigius Bishop of Lincoln is upon record, published by many, and was certainly by the Conqueror directed to every Diocese through the Kingdom: for I have seen in an hand of <sup>q</sup> Edward the first one for

\* Carol. & Ludovic. cap. lib. 6. cap. cxi.

g in concil. Spelman. passim. h apud Iorval. col. 845, 36. i cap. 5. p. 64. Iorval. pag. 872, 13. cap. 10. k cap. 17. pag. 3. Iorval. cap. 38. pag. 924. l Concil. Calcutib, apud Spelman. cap. 3. pag. 293. m apud Spelman. concil. p. 330. cap. 9. n Eadmerus apud Gervasium Dorobernensem, col. 1292, 18. o apud Gervasium & Sim. Dunelm. five Turgot. de Dacelmensi ecclesia lib. 3. cap. 10. col.

O 2

Lor-

London, testifying it was then found in the Episcopall register there.

1 apud Baron.  
ann. 2. Ann.  
1071. n. 9.

9. When this past the King, whether at the Popes Legats being here for deposing *Stygand* 1070. (about which time Historians remember he made some beginning for settling the *English* laws, and is therefore likely to have then past this) or when they were here for settling the dispute between *York* and *Canterbury*, or at what other time, is uncertain. Yet I cannot deny, it seemeth to me to have given th' occasion of those expressions in *Alexander* the 2. his letter to him, that the world, *in maligno positus, plus solito pravis incumbat studiis; tamen inter mundi principes & rectores egregiam vestra religionis famam intelligimus, & quantum honoris sancta Ecclesie tum Simoniace vires opprimendo*, (which is apparently spoken of *Stygand*) *tum catholicae libertatis usus & officia* (by which questionlesse he points at this charter) *confirmando, vestra virtus impendat, non dubia relatione cognoscimus*, &c. Now certainly, if he did grant it during the life of the Pope, it must not have been after 1073. in which year he died. I confesse, I have not met with any clear example of the practice of it during the reigns of that King, or either of his children: For though *Anselme* about 1106. writes to *Henry* the first, (who had punished certain Clerks not observing the decrees of a Councell held at *Westminster* 1102) *quod hactenus inauditum & inusitatum in ecclesia Dei de ullo Rege & de aliquo principe; non enim pertinet secundum legem Dei huiusmodi culpam vindicare, nisi ad singulos episcopos per suas parochias*: yet I conceive this is to be interpreted of the King doing it alone without the Bishop, not when they both joyned together after the manner then in use, which himself else where <sup>u</sup> advises *Rufus* unto; *Conemur una, tu regia potestate & ego Pontificali auctoritate, quatenus tale quid inde statuatur, quod cum per totum fuerit regnum divulgatum, solo etiam auditu, quicunque il-*

u apud Ead-  
mer. pag. 24.  
12.

u apud Ead-  
mer. pag. 24.  
12.

*lius fautor est paveat & deprimatur.* I can take this for no other, but that in the laws of \* *Ethelstan*, *Debent episcopi cum seculi iudicibus interesse iudiciis, ne permittant, si possint, ut aliqua pravitatum germina pullulaverint.* And the laws of y *Henry* the first are expresse, the use to have continued in his daies; for they approve the ancient institution, That *generalia Comitatum placita certis locis & vicibus convenire debere*, That the Iudges in those Courts were *Episcopi, Comites, Vicedomini*, &c. The causes they dealt in, and order of proceeding, *agantur primo debita vera Christianitatis iura, secundo Regis placita, postremo causa singulorum*, &c. And why may not *certa loca* here be what *Anselme* calls *Parochia*, the Conqueror *Hundred*?

10. But good laws are not alwaies suddenly put in execution; and this of the Conqueror we may take to have slept, till towards the beginning of King *Stephen*'s time it had got some strength, for then we meet with plain precedents of the Ecclesiastick Courts being sever'd from the Lay. *Theobald* of *Canterbury* molesting the monastery of *St. Augustines* concerning certain Priviledges granted from the Papacy, th' Abbot obtained a bull from *Innocentius 2.* of the 20 November 1139. in his houses favour, in which the Pope expostulates with th' Archbishop, *quod occasione privilegii nostri, idem monasterium vehementer infestas, & ecclesias eidem cœnobio pertinentes eundem abbatem ordinare non sines, quin potius violenta dominatione ecclesias eorum firmatas diceris infregisse, & presbyteros tuos, invito Abbate, & ejusdem loci fratribus, contra Romanæ ecclesiæ privilegia, quibus idem cœnobium est munitum, in eis ponere præsumpisse: nec his contentus, abbatem ipsum, & homines ejus, ad placitandum super hoc in curiam tuam, prout asserunt, præsumptuose traxisti, eisque ob eam rem pœnam molieris infligere, &c.*

*Leges instituantur cum promulgantur, firmantur cum moribus utentium approbantur.* Dist. 4. cap. 3.

*z Habetur hæc bulla in splendido Ms. reposito in aula Ste. Trinitatis Cantabr. ante 200. annos exarato, & in alio Ms. optimæ notæ ante quadringentos annos scripto in Scchario.* fol. 49. b.

a Col. 1800.

11. *William Thorne*, who<sup>a</sup> mentions this 1139. 4. 46.

*Steph.* observes (which is warranted by the bull it self) *quod iste Theobaldus primo Abbatem & conventum ad causas trahere conatus est*, and is the first I have noted in which th' Ecclesiasticks alone did force men to plead in their Courts; which, as it doth prove they then had them, so we may conclude them not long to have been possess'd of that power: for it is altogether improbable, if that act of King *VWilliam* had been in his and his sonns time generally practis'd, but some Archbishop, in above fifty years, might have attempted as much, if not to the Abbot, at least to some other; as after this the examples are frequent, of which one in the 122 epistle of *Iohannes Sarisburiensis* is not unworthy the remembring. *Symphorian* a Clergy-man of *York*, accused one *Osbert*, Archdeacon of the same Church, before king *Stephen*, the Bishops and Lords, 1154. for making away *VWilliam* the late Archbishop of that See by poyson. A question grew, to whether Court this cause belonged. The King affirmed it to belong to the temporall, for the heynousness of the fact, and because it was first entred upon in his presence. But before the decision *Stephen* dyed, and *Henry* the 2. succeeded; *de cujus manibus* (saith my Author) *vix cum summa difficultate, in manu valida, cum indignatione Regis & omnium procerum, jam dictam causam ad examen ecclesiasticum revocavimus*; from whence it was by *Appeal* carryed to *Rome*.

12. But what this *manus valida* should be, that took the case from the King, I cannot imagine: for it is undoubted, in all disputes of this nature, the Kings Courts have been ever Judges to what Court the cause did belong. *Braetton* speaks very clearly; <sup>b</sup> *Iudex ecclesiasticus cum prohibitionem à Rege suscepit, supersedere debet in omni casu, saltem donec constiterit in curia Regis ad quem pertineat jurisdictio: quia si Iudex Ecclesiasticus asserere possit an sua esset jurisdictio, in omni casu indifferenter procederet non obstante regia prohibitione, &c.* and 1080 *VWilliam*

b Lib. 5. de  
exceptionibus  
cap. 15. §. 3.  
fol. 412. a.

liam the first, in a <sup>e</sup> Councell at Illebon in Normandy, by th<sup>e</sup> advise of both estates, Ecclesiastick and Secular, did settle many particulars to belong to the cognizance of the spirituall Iudge; and concludes, that if any thing were further claimed by them, they should not enter upon it, *donec in curia Regis monstrent quod habere debeant*. Neither were the Lay to molest them in the exercise of ought there mentioned, *Donec in curia Regis monstrent quod Episcopi inde habere non debeant*. So in both reserving the decision to his own Courts, of what pertained to each: in so much as, what that strong hand should be, did thus take this from the King, I must profess not to understand. And that our Kings had ever an inspection over those Courts, is not to be doubted, by the Charge against Becket, in which Henry the 2. urgeth, <sup>d</sup> *quod curiam Iohanni coram ipso litiganti plenam justitiam non exhibuit, & super hoc ad Regis presentiam vocatus, venire contempsit*. To which th<sup>e</sup> Archbishop answered, *prafato Iohanni condignam non defuisse justitiam, & Iohannem non legaliter curiam suam infamasse, qui non super evangelium, ut moris est, sed super veterem cantuum codicillum, quem secum tulerat, voluerit pejorare, &c.* and for his not attending the King, to give him satisfaction in the point, pleaded th<sup>e</sup> excuse of sicknesse; yet for that contempt was adjudged to loose his moveables.

By which it is evident, th<sup>e</sup> Archbishop did then <sup>e</sup> exact oaths of such as were called into his Court, that he wato give an account to the King of his carriage in it, who by his constitutions hath ever directed the manner of proceedings in it. See *Mat. Paris Anno 1247. pag. 727, 29. Anno 1246. pag. 716.1.* But of this <sup>f</sup> more hereafter.

13. The Conqueror, though he did shew so much compliance with the *Romanist*, as not to deny any thing former Kings had acknowledged to the Papacy as due, yet farther

<sup>e</sup> Concil. Illebon. cap. 47. apud Ordericum Vitalem p. 552, 554.

<sup>d</sup> Apud Ger. Doroborn. col. 1389, 37. An<sup>o</sup> 1164. see Rot. Parl. at Leicester, 2. Hen. 2. pet. des Cöcs. 5.

<sup>e</sup> Gervas. Doroborn. col. 1389, 42. Hoveden, An. 1165. fol. 283, a. 32. f. n. 17. §. xvii.

g *Warr. Gre-*  
*gor. 7. inter*  
*Lanfranc. ep.*  
*7. p. 304. &*  
*apud Baron.*  
*tom. II. An.*  
*1079. n. 25.*  
*h Hoveden,*  
*fol. 343. a. 19.*  
*i Leg. Hen. 1.*  
*cap. 5, 7. &*  
*p. sim ibidem.*

farther then *s* they had gone would in nothing submit unto it: and as they had by their edicts guided the ecclesiastick affaires of this kingdome, so he proceeded in his lawes, *h à legibus sanctæ matris Ecclesiæ sumens exordium*, as did his sonne *i Henry the 1.* How far they did conceive this their power to extend in those matters, nothing can better teach us then the lawes they and such as came after them (princes against whom no exceptions can lye) establisht, and usages they maintained as the rights of the Kingdome, in opposition of all encroachments whatsoever.

14. To enumerate all these Priviledges (I conceive them with our auncestors better called Rights) I hold impossible, the foundation or ground upon which they are built being that power the divine wisdom hath invested the secular Magistrate with, for preservation of his Church and people in peace, against all emergencies from whomsoever proceeding; as the Bishops of the Province of *Canterbury* writ to *Thomas Becket* 1167.

k *Apud Hoved*  
*fol. 292.*  
*b. 5.*

k *Rex à Domino constitutus paci providet subjeetorum per omnia; ut hanc conservet Ecclesiis, & commissis sibi populis, dignitates Regibus ante se debitas & exhibitas sibi vult exhiberi.* And this issuing from so great auctority, as in effect the body of all the Clergy of the realm, cannot be imagined to be other then the constant opinion of th' *English* Church. In what these Rights have been put in practise in opposition to *Rome* (of which I now treat) may in some sort be told: but to say these they are, and no other, is that I mean cannot be. So that we may say the affirmative, *these they are*, but not the negative, *others they are not*. Therefore *Eadmerus* will have it of the Conquerour, that *1 Cuncta divina simul & humana ejus nutum expectabant*, that is *in foro exteriori*; insomuch as, when the Clergy 1530. gave the King the title of *Head of the Church*, they intended no other then their fore-fathers, when they called

l *Eadmer. p. 6.*  
*21.*



called him the <sup>m</sup> Defender, Patron, governor, <sup>n</sup> Tutor of it.

15. Which the French do attribute to their Kings with more hard expressions; <sup>o</sup> *Ce que monstre* (says one) *que les evesques de ce temps la, estimerent le Roy, assis de son conseil d'estat, estre apres Dieu Chef terrien de l'Esglise de son Royaume, & non pas le Pape,* in the negative: Which another explains thus, *Ce n'est point pour cela que je vueille dire, ce que aucuns ont trop indistinctement professé, que les dits Roys & Princes Souverains soient en leurs estats privativement à tous autres, Chefs uniques & absolus de l'Esglise, & de tous les ministres d'icelle; car pour le regard de ce que concerne le maniement des choses purement sacrees, come l'administration de la parole de Dieu, & des Sacrements, & la puissance de lier ou delier, voire de regler en particulier le dedans de chacune Esglise, la surintendance en appartient aux Evesques, & autres Chefs de la Hierarchie Ecclesiastique, a chacun selon leur rang & degré.* Then shewing by a comparifon, that as the head-Architect leaves to his inferior Agents the use of such instruments as are proper for their undertakings; so, it n'appartient point au Roy de manier les choses sacrees, ny supporter comme l'on dit l'arche d'alliance, ils doivent laisser cela a ceux de la vocation; mais ils peuvent voire sont tenuz devant Dieu, veiller sans cesse, & avoir l'oeil ouvert a ce que ceux de cest ordre & profession principale, aussi bien que ceux des autres moines, apportent en loyauté & sain conscience tout soin, diligence, pureté, & sincerité, au maniement des charges a eux commises, conformément a leur loix, regles & canons; lesquels au cas qu'ils serroient negligez, & effacez par la rouille de l'antiquité, ou que par la malice des hommes il fust besoin d'en faire des nouveaux, ils sont tenuz user de leur puissance, pour y apporter des remedes, soit par leur Ordonances & pragmatiques, soit par leurs jugemens, arrests, & executions d'iceux. C'est ce qu'en France nos predecesseurs ont toujours appelle, la police exterieure sur l'Esglise, de la quelle les Emperours, Roys &

<sup>m</sup> Mat Paris  
An. 1241. pag.  
559. 15.  
<sup>n</sup> Epist. Vni-  
versit. Anglia  
ibid. An. 1245.  
pag. 667. 38.  
ibidem.  
<sup>o</sup> Claude Fau-  
chet en les li-  
beries de l'E-  
glise Gallicane  
in 4<sup>o</sup>. à Paris  
1612. avec  
Privilege, p.  
234. & 1639.  
p. 179.  
p Charles le  
Faye ibid. pag.  
287. in edit.  
1639. p. 230.

q du delict  
commun p.  
528. editionis  
b 6:9.

Princes ont use & jouy sans contredit, tant que l'esglise s'est conseruee en sa purete, & qu' aucuns d' icelle ne se sont ingereez, sortants de leurs bornes & limites d' usurper les fonctions Royales. Insomuch as Benigne Miletor doth not onely affirm their Kings to be *Chesfs, Protecteurs, & Conseruateurs de leur esglise Gallicane*; but pag. 657. recites a speech of th' Archbishop of Vienna made to Henry the 4. 1605. in which he did affirm, *que le Roy estoit le Coeur & la Teste de l'ur corps.*

r 26. Hen. 3.  
cap. 1.  
1. Eliz. cap. 1.

16. And other *Headship* then this I do not know to have been ever attributed to any of our Princes: Certainly they did never take on them the exercise of any thing purely sacred, but as supream <sup>r</sup> *Head, Rulers or Governours*, under God, by their Commissioners (of which such as bare most sway were ever the Spirituality) to *visit, reform, redresse &c. all errours, Heresies, schisms, abuses, &c.* And for that the rust of antiquity (as that without styles it) had much over-spread the Canons of the Church, <sup>r</sup> to assigne sixteen of the Clergy, whereof four to be Bishops, and as many of the Lay, of which four to be learned in the Common laws of this realme, *to peruse and examine th' ecclesiasticall laws of long time here used, and to gather, order and compile such laws ecclesiasticall, as shall be thought to his Majesty, his said \* Counsell, and them or the more part of them, to be practised and set forth within this realme.* In pursuance of which, the 11. November 5<sup>to</sup> of Edward the 6. he nominated two Bishops, two Divines, two Doctours of the Law, two Esquires, to supervise the ecclesiastick laws of this Kingdome, and to compile such a body as were fit to be put in practise within his Dominions; whose intendments (for it past no further) were after printed by *John Day* 1571. and are no other then what the French (for the manner of doing) maintain their King might do: neither doth th' Inquisition of *Spain* publish any thing of that nature; without th' allowance of their King, as I shall shew <sup>u</sup> hereafter.

r Stat. 3. & 4.  
Ed. 6. cap. 11.  
see before.  
25. Hen. 8.  
cap. 19.  
27. Hen. 8.  
cap. 15.  
35. Hen. 8.  
cap. 16.  
\* Counsell.

u cap 7. m. 12.

17. So.

# Chap. V. of the Church of England. 107

17. So that, in my opinion, the question cannot be, whether Princes are not capable of such a Right; but whether it were invested in the Crown formerly, and made good by such a continued practise, as might authorise ours to take that title (when offered by the Clergy 1530.) as well as the *French Kings* have, without in-croaching on that power th' ecclesiasticks had, and by our laws ought to exercise in *England*. Now, certain, our Kings did in many things go along with the *French* in causes ecclesiasticall: *x Rex Anglorum, exemplum accipiens ab illis Baronibus qui sua statuta sanxerunt in Francia, quibus & Dominus Francorum favorem jam praeiuit, & sigillum apposuit, &c.* *Clement the 7.* being held prisoner 1527. by th' Emperour, the 18<sup>th</sup> of *August* Cardinall *Woolsey* made an agreement with the *French*, for settling h' ecclesiastick government of each Kingdome during the Popes captivity. For the *French*, I shall remit the reader to the y Deed which is printed; but th' *English* were to be such as should be agreed to, *praelatis accitis de mandato & auctoritate predicti invictissimi Angliae Regis*, whose determinations were to be *consensu ejusdem invictissimi Angliae Regis*. But where *z* my Lord *Herbert* conceivs this to have been the first taste our King took in governing the Clergy, I can no way be of his opinion; for, without peradventure, the Cardinall neither did nor durst have moved one step in making the Ecclesiasticks lesse depend on the Papacy, then the Common law or custome of the realm warranted, knowing he must without that back have lost not onely *Clement the 7.* but all Popes and the Court of *Rome*, which must and had been his support, on the declining favour of so heady and dangerous a Prince as *Henry the 8<sup>th</sup>*, had he not cast off both the Cardinall and his obedience to that See almost together. But how much he had the Clergy before this under his government, the History of *a Richard Hunne* is witnesse sufficient: and the rights the Conquerour and his successors

x Mat. Paris  
Anno 1247.  
p. 727, 26.

y Preuves des  
libertes de l'Es-  
glise Gallicane,  
cap. 20 n. 33,  
p. 529.

z Hist. Hen. 3.  
p. 219.

a See Hall  
6. Hen. 3.

were ever in contest with the Papacy about, and maintained as the laws & customs of the Realm, enough shew they did not command th' Ecclesiasticks here according to the will of any forraign potentate, nor were meer lookers on, whilst another govern'd the *English Church*: some of which I shall therefore here set down.

I. They<sup>b</sup> admitted none to be taken for Pope but by the Kings appointment.

II. <sup>c</sup> None to receive letters from him without shewing them to the King, who caused all words prejudiciall to him or his crown to be renounced by the bringers, or receivers of them.

III. <sup>d</sup> Permitted no counsels, but by their liking, to assemble; which gained the name of convocations; as *that* <sup>e</sup> *alwayes hath been and ought to be assembled by the Kings writ.*

IV. <sup>f</sup> Caused some to sit in them might supervise the actions, and *l gato ex parte Regis & regni inhiberent, ne ibi contra Regiam coronam & dignitatem aliquid statuere attentaret*: and when any did otherwise, he was forced to retract that he had done, as <sup>g</sup> *did Peckham*; or were <sup>h</sup> *in paucis servata*, as those of *Boniface*.

V. <sup>i</sup> Suffered no Synodicall decree to be of force, but by their allowance and confirmation. <sup>k</sup> *Rex auditis concilii gestis, consensum praeiit, auctoritate regia & potestate concessit & confirmavit statuta concilii à Gulielmo, Cantuariensi Archiepiscopo, & sanctae Romanae ecclesiae legato, apud Westmonasterium celebrati.* <sup>l</sup> *In hoc concilio, ad emendationem ecclesiae Anglicanae, assensu Domini Regis & primorum omnium regni, haec subscripta promulgata sunt capitula, &c.*

VI. Permitted no Bishop to <sup>m</sup> excommunicate, or inflict any ecclesiastick censure on any Baron or Officer, *nisi ejus praecepto.*

VII. <sup>n</sup> Caused the Bishops appear in their Courts, to give account why they excommunicated the subject.

VIII. <sup>o</sup> Caused

<sup>b</sup> Eadmer. p. 6, 26, vide epist. Hen.

<sup>c</sup> Chicheley in vita ejus, edit. 1617. p. 77, 78.

<sup>e</sup> Eadmer. ibid. & pag. 113, 1.

<sup>d</sup> Thorn, col. 215, 21. & 2194, 18. & alibi. Cook

Inst. 3. p. 127.

<sup>f</sup> Eadmer.

p. 24, 5, 11.

<sup>g</sup> Stat. 25.

<sup>h</sup> Hen. 2. cap. 19.

<sup>i</sup> Mar. Paris

Anno 1237.

p. 447, 51.

<sup>k</sup> Vide Seld.

de Synedr. i.

part. 1. p. 373.

<sup>l</sup> Lyndwood

de foro compo-

nent. cap. 1.

<sup>m</sup> Gloss. 1.

<sup>n</sup> Eadmer.

p. 6, 29.

<sup>o</sup> Flor. Wi-

gorn. Anno

1127. p. 505.

<sup>p</sup> Gervas.

Doroborn.

Anno 1175.

col. 1429, 18.

<sup>q</sup> Eadmer.

p. 6, 31.

<sup>r</sup> M. Paris

Add. ment.

p. 200 num. 7.

<sup>s</sup> See Articuli

cleri 9. Ed. 2.

cap. 7.

VIII. ° Caused such as were imprisoned, after fourty dayes standing excommunicate, to be freed by writ, without th' assent of the Prelat, or satisfaction giving; p the King and his Iudges communicating with them *tam in divinis quam profanis*, q and commanding none to shun them, though by the Ordinary denounced excommunicate.

*o ibid. n. 10.*

*p ibid. n. 12.*

*q ibid. n. 13.*

IX. † Suffered no Legat enter *England* but with their leave; of which before.

*r Eadmer.*

*p. 58. 40. p.*

*113. 1 p. 118.*

*28.*

*f Eadmer.*

*p. 115. 23. 31.*

X. † Determined matters of Episcopacy, *inconsulto Romano Pontifice.*

XI. Permitted no Appeal to *Rome*; of which before.

XII. † Bestowed Bishopricks on such as they liked, and u translated Bishops from one See to another.

*r Flor. Wigorn. Anno*

*1070. p. 536.*

*Hunt. fol.*

*219. a. 1.*

*u Eadmer.*

*p. 95. Flor.*

*Wigorn. Anno*

*no 1109.*

*x Johannes*

*Hagullstad.*

*col. 257. 48.*

*y Vide Cook*

*Instit. 2. p.*

*625.*

*z Rot. Parl.*

*16. March*

*3. Hen. 5. n. II.*

*Anno 1414.*

*Io n 23. Iope.*

*a Mat. Paris*

*Addament.*

*p. 200. n. 6.*

XIII. Erected new Bishopricks: so did *Hen.* the 1. 1109. *Ely*, taking it out of *Lincolne*, x *Carlisle* 1133. out of *York* or rather *Duresme*: but of this before.

XIV. y Commanded by writ their Bishops to residency.

XV. z Commanded their Bishops, by reason of Schism, vacancie of the Popedome, &c. not to seek confirmation from *Rome*, but the Metropolitan to be charged by the Kings writ to bestow it on the elected.

XVI. a Placed by a lay hand Clerks in Prebendary or Parochiall Churches, *Ordinariis penitus irrequisitis.*

And it is not here unworthy the remembring, that *Vym Lyndwood*, a very learned Canonist, who writ about an 100. yeares before *Henry* the 8<sup>th</sup>s difference with *Clement* the 7. finding the Crown in possession of this particular not agreeing with the rules of the Canon law, is so perplext. as in the end he finds no way to make the act valid, b but that he doth it by Papall priviledge: For if by prescription, *Episcopo sciente & tolerante*, it could nor be good; for though the King might confer the temporalls of the Church, *non tamen potest dare jure suo potestatem circa spiritualia, viz. circa ea qua pertinent ad regim.*

*b De cohabitacione Clericorum & Mulierum, cap. 1. ad verbum Beneficiari, fol. 64. b.*

*men ecclesiasticum, & ministracionem sacramentorum & sacramentalium, nec non circa ecclesiastica jurisdictionis exercitium, & hujusmodi, quae jure spiritualia sunt; nec in hoc casu potest sibi prodesse praescriptio etiam longissimi temporis, quia talia spiritualia non possunt per regem possideri, & per consequens, nec ut transcant sub sua potestate possunt praescribi, nec consuetudine introduci, &c.* In which he will have an hard contest with divers French and Italians, who maintain, *c* Che tutte le ragioni che si possono acquistare per dispensa del Papa, si possono acquistar anco per consuetudine, la quale sopravenga contraria alla legge: that a prince may prescribe for such acts as he can acquire by the Popes dispensation.

*e Considerationi di Padre Paolo Venet.*

1606. fol. 31.

2. vide Fulgentio in difesa d'essi, p. 312. & sequenti.

d Mat. Paris Additament.

p. 200. n. 9.

& in historia majori p. 716.

7. vide Selden. de Synedriis part. 1. c. 10. p. 383.

e Mat. Paris Additament.

p. 202. n. 30.

XVII. d Prohibited the Lay yielding obedience, or answering by Oath to their Ecclesiastick superiour inquiring *de peccatis subditorum*: which I take to have been in cases not properly of their cognizance, not of witnesses either in causes Matrimoniall or Testamentary.

XVIII. I shall conclude these particulars with one observation in *Mat. Paris*; where the Ecclesiasticks, having enumerated severall cases in which they held themselves hardly dealt with, adde, *c* Thar in all of them, if the spirituall Iudge proceeded contrary to the Kings prohibition, he was attached, & appearing before the Iustices, constrained to produce his proceedings, that they might determine to which court the cause belonged: and if found to pertain to the secular, the spirituall Iudges were blamed, and, on confession they had proceeded after the prohibition, were amerced; but denying it, were compell'd to make it good by the testimony of two *vile Varlets*, but refusing such purgation, were imprisoned, till by oath they freed themselves to the Iustices; that being cleared even by the Lay, they had no satisfaction for their expence and trouble. By which, by the way, it is manifest how much the Kings Courts had the superintendency over the Ecclesiastick.

\* *Vilissimi ribaldi.*

18. These,



# Chap. V. of the Church of England. 111

18. These, and many other particulars of the like nature, daily exercised, notwithstanding the clamour of some Ecclesiasticks, more affecting their own party than the rights of the Crown, make there can be no scruple, but the English did ever understand the outward policy of this Church, or government of it *in foro exteriori*, to have much depended on the King; and therefore the writs for summoning Parliaments, expresse the cause of his calling them to be, *pro quibusdam arduis, urgentibus negotiis, nos, statum, & defensionem regni nostri Angliae & ecclesiae Anglicanae concernentibus*, .i. or, as our Bishops have sometimes exprest it in the Rolls of Parliament, *à l'onour & reverence de Dieu & de seinte esglise, & al salvation & amendement de son roialme*, &c. Likewise the Commons, that their gift of the 9<sup>th</sup> sheaf, &c. to Edw. the 3. to have been for his defence of the Kingdome, *& de seinte esglise d' Engleterre*: Rot. Parliament. 15. Ed. 3. n. 25. According to which our Kings joyned both together, professing their care for amending the Church to be equall with that of the Commonwealth.

*Item fait assavoir, que nostre tressoveraigne seign<sup>r</sup> le Roy, eiantz grande volonte & desir de l'estate de son elglise, & de son Royalme, en les choses ou mestier est d'amendement, al honor de Dieu, & pur la pees & la commune profit de seinte esglise d' Engleterre, come de tout son Royalme, d'el advis & assent des seign<sup>rs</sup> esperituells, &c. ad fait, &c.* In pursuance of which interest residing in the Crown, the Lords and Commons under Rich. the 2. searing the opinions called *Lollardy* might prevail, & *petierunt à Rege de istis remedium apponi, ne forte archa totius fidei ecclesiae talibus impulsoribus in illius temporibus, pro defectu gubernaculi, irremediabiliter quateretur*. Upon whose desires, he commanded th<sup>r</sup> Archbishop of Cant. and his other Bishops, *ut officium suum singuli in suis diocesibus secundum jura canonica acius & ferventius exercerent, delinquentes castigarent, librosque eorum Anglicos*.

.i. Evêque  
d' Exceſtre  
chancelier.  
Rot. Parl.  
20. Ric. 2. n. 1.

† Rot. Parl.  
at Leicester.  
2. Hen. 5. n.  
10.

g Hen.  
Knighton  
col. 2708. 40.  
Anno 1387.

glicos plenius examinarent, errata exterminarent, populumque in unitatem fidei orthodoxa reducere studerent, ecclesiamque urticis, [ & ] vepribus desolatam liliis & rosis ornarent, &c. After which, the said authour records a Commission, by which his Majesty, as *Defender* of the Catholick Faith, did impower certain to seize upon hereticall books, and bring them before his counsell: and such as after proclamation shall be found to hold such opinions, being called and examined before two Commissioners ( who were of the Clergy ) and lawfully convicted thereof, to be by his Majesties ministers committed to the next prison. ∴ Fourteen years after which, the Commons shew *Hen.* the 4<sup>th</sup> the Parliament might be compared to a Masse, in which th' Archbishop of *Cant.* began th' office, reading th' Epistle and expounding the Gospel, ( which, it seems, they took to be the part of the Ecclesiastick, as did the ∴ *Saxons* before )

*& à la mesme que feust la sacrifice d' estre offertz à Dieux par touz Chrestiens, le Roy mesmes à cest Parlement, pour accomplir celle mesme, plusieurs foitz avoit declarez pleinement a toutz ses lieges, comment sa volonte feust, que la foy de saint esglise feust gouvernez en maniere come il' ad este en temps de ses nobles progenitors, & come il est affirme par saint esglise, par les saints Doctours, & par saint Escriture, &c.* and a little after, shewing they the Commons were onely to say, *Deo gratias*, which they were obliged to do for three reasons, the second of which is, *pur ceo que la ou la foy de saint esglise, par malvaise doctrine, feust en point d' avoir este anientz, en grand subversion du Roy & du Roy-alme, mesme nostre Seig, le Roy ent ad fait & ordeigne bon & joust remede, en destruction de tiel doctrine, & de la sect d' ycel, peront ilz sont ensement tenuz de dire cel parole Deo gratias.* By all these it must be granted, they did hold the chief care of the *English* Church to have depended ( in the outward policy of it ) on the prince ; or else that they did speak and do very unadvisedly in attributing

∴ *Rot. Parl.*  
2. *Hen. 4. n.*  
47.

∴ *cap. hoc, n. 6.*

buting so much unto his care of it, and providing that he might be supplied to defend it, without at all mentioning any other to whose care it belonged.

19. Neither did these expressions and petitions passe the Commons onely, or the Clergy over-ruled by the numbers of the temporality; but the Bishops by themselves acknowledged how much it stood in his M<sup>ties</sup> care to provide against any novelties creeping into the English Church, and that it might enjoy the rights and liberties belonging to it: and therefore, when the said doctrine of Lollardy continued encreasing, they, in the names *Prælatorum & cleri regni Angliæ*, petition<sup>h</sup> Henry the 4<sup>th</sup>. *Quatenus ---- inclutissimorum progenitorum & antecessorum vestrorum laudabilia vestigia graciosè considerantes, dignetur vestra regia celsitudo pro conservatione dictæ Ecclesiæ Anglicanæ, ad Dei laudem, vestrique meritum, & totius regni prædicti prosperitatem & honorem, & pro hujusmodi dissensionibus, divisionibus, dampnis & periculis evitandis, super novitatibus & excessibus prædictis in præsentì Parlamento providere de remedio opportuno &c.* Did not these then hold it the office of the King, as that his progenitors had ever done, to provide, no dissensions, scandalls, divisions might arise in the Church, the Catholick faith might be truly conserved and sustained? and what other did any of our Princes ever challenge or assume?

h Rot. Parl.  
2. H. 4. n. 43.

20. When the Clergy likewise went at any time beyond their bounds, or were negligent performers of their duties, the subject upon all occasions had recourse unto his M<sup>ty</sup>, as to whose care the seeing what was amiss redrest did especially belong: as i when th<sup>e</sup> Ecclesiastick Courts were grievous for the fees, k or their pecuniary p<sup>e</sup>nances too heavy, when they were oppress<sup>d</sup> by Papall provisions (of which before) when through the absence of their Curat they were not so well taught &c. . . when

i Rot. Parl. 50.  
Ed. 3. n. 84.  
1 R. 2. n. 108.  
k Rot. Parl.  
O<sup>th</sup>av. Purif.  
25. Ed. 3.  
n. 35.  
. Rot. Parl.  
O<sup>th</sup>av. Purif.  
25. Ed. 3.  
n. 31.

Q

the

3. Rot. Parl.  
at Leicester  
2. Hen. 5. pet.  
des Cœr. 5.  
vide Rot. Parl.  
46. Ed. 3. n.  
36, 37. n. 41,  
42.

1 Rot. Parl.  
17. Ric. 2.  
n. 43.  
m Rot. Parl.  
7. H. 4. n. 114.

n Rot. Parl.  
11 Hen. 4.  
n. 70.

o Rot. Parl.  
3. Hen. 6.  
n. 37, 38. vide  
4. Hen. 6. n. 31.

the frequency of the writ *de excommunicato capiendo* made it burthensome, ∴ when men were cited by them on causes neither Matrimoniall nor Testamentary, and appearing were not allowed a copy of the libell against them. In which case the Kings answer is not unworthy the repeating, shewing clearly, he directed how they should proceed; *le Roy voet que a quel beure la copie de le libelest grantable par la ley, q' l' soit graunté & liveré a la partie, sanz d' difficulté.* It is true, Kings would refer matters of that nature to their Bishops, unto whose care under them it did especially belong: so Richard the 2. being<sup>1</sup> petitioned in point of Residency, answered, *Il appartient aux offices des Evêques, & le Roy voet qu' ils facent leur office & devoirs &c.* His successor being again prest in the same kind, gives his command thus, *Facent les Ordinaires leur office & devoirs: & per cause que les pluralites q' ont este grantees devant ces heures sont & ont este la greindre cause de l' absence des tiels curats, y plect au Roy nostre Seigr. de l' advis & assent des Seigrs. en Parlement, escrire par ses honnourables lettres a nostre seint pier le Pape, de revoke & repeller toutes les pluralites generalement, & que d' es ore en avant nulle pluralite soit graunte a ascun en temps a venir.* But the Pope, it seems, giving no satisfaction in the particular, the <sup>n</sup> 11. Hen. 4. the Commons again petition, That the riches of the kingdome being in the hands of Church-men, those livings upon which the incumbent of common right ought to reside, half of the true value should remain to himself, but the other to the King. To which the answer is, *Ceste matiere appartient a seinte Esglise, & quant a la residence, remede ent fust purveu en la darrain Convocation.* Yet this matter of non-residence still molested the Commonwealth, 3. Hen. 6. the King tells them, by th' advise of the Lords of Parliament, *He had delivered their bill to my Lord of Canterbury, charging him to pourvey of remedy for his Province, and semblably shall write*

# Chap. V. of the Church of England.

¶ 15

*write to the Church of York for that Province.* By which we may see the King, Archbishop, and Convocation did conceive themselves to have a power of redressing things in this Church, which yet in civility they thought fit first to acquaint the Pope with, as a spirituall Doctor or Patriarch, however of great esteem, yet not endued with a power of commanding in this Church otherwise then the lawes of the Kingdome, the contracts with the Papacy did bear.

p See cap. 5.  
n. 14, 15.

21. Now it cannot be doubted that all these petitions of the Commons, and sundry more which may be produced, had been by them vainly prefer'd, had they not taken the King to have been vested with a power of redressing things blameable in the government of the Church. But when we say the Prince, as the principall, without whom nothing is done, may be rightly termed *Head* in the act of reformation; our meaning is not, that he will deal in points of Ecclesiastick cognizance without the advise of his Bishops, and other learned of the Clergy: we know, in things proper *q* *Iosuah* is to take counsell of *Eleazer*, and the Kings of this nation have ever done so.

q Numbers  
xxvii. 21.

22. When *Edgar* intended the advancing *Christi gloriam*, he chose him three Bishops to be his *patres spirituales* and *consiliarios*. But to speak of later times: when the Commons endeavoured a reformation of some things in the Church, *Hen.* the 8<sup>th</sup>. would not answer their desires, till he had first acquainted the Spirituality. When he intended to publish a book of the principall articles and points of our faith, with the declaration of other expedient points, and also for the lawfull rites and ceremonies to be observed within this realme, he ordained it to be by th' Archbishops and sundry Bishops of both Provinces, and also a great number of the best learned, honestest, and most vertuous sort of Doctors of Divinity, men of discretion, judgement, and good disposition, &c. And *Ed-*

∴ concil.  
Spelm. p. 433.

r Hall 23.  
Hen. 8. fol.  
202. b. 24.  
Hen. 8. fol.  
205. a. Her-  
bert p. 329.  
1537.  
f Stat. 32. H. 8.  
cap. 26.

1 Fox *Acts and Monuments*, tom. 2. p. 6, 8. col. 1. & pag. 659. col. 2.  
 2 Statut. 2. &  
 3. Ed. 6. cap. 1.

ward the sixth minding a farther reformation of some usages in the administration of the Eucharist, he caused it to be \* made by the most grave and learned of his realm, for that purpose by his directions assembled at *Windfor*; who afterwards, \* for taking away divers and sundry differing forms and fashions had formerly been used in sundry Churches of England and Wales, appointed th' Archbishop of Canterbury, and certain of the most learned and discreet Bishops, and other learned men of the realm, to consider of the premises, who, by the ayd of the Holy Ghost, with one uniform agreement concluded on and set forth the book of Common prayer &c. Upon which the two houses of Parliament, considering as well the most godly travell of the Kings highnesse, — in gathering and collecting the said Archbishops, Bishops and learned men together, as &c. do give to his Highnesse most hearty and lowly thanks &c. So that it is apparent, the King, in composing this book, did not assume to himself, or the Parliament attribute unto him any other then assembling of the Bishops and other learned men together, to take their consultations.

x Preface to the book of Ed. the 6. 1549.

y Mat. Paris *vic. Abba. S. Albani*, p. 101, 17. 17. p. 123, 28.  
 z Agobardi *opera*, Paris, 1605 p. 392.  
 a Harpsfield *Hist Anglican. Eccles. sect. xi. cap. 19* p. 251, 48.

23. And they observing the great \* diversity in saying and singing in severall Churches, the difficulty of finding what was proper for each day, (apt to breed confusion) reduced the publick service of the Church to one form more facile and of better edification, following therein the examples of divers holy Bishops and others: for if y *Guarinus* Abbot of *S<sup>t</sup> Albans*, in the Office used in his Church about 1190, might *superflua rescare*, to reduce the prayers there to one form, if z *Agobardus* in France might *amputare superflua vellevia* &c. if a *Osmund* Bishop of *Salisbury* in England, quoniam *singula fere Dioceses in statis & precariis horis dicendis variabant, ad hanc varietatem tollendam, & ut quasi absolutum quoddam precandi, quo omnes uti possent, exemplar exstaret, eas in eum fere ordinem & commodam rationem, quam hodie omnes prope Angliæ, Cambriæ, & Hiberniæ* (v. iz.



(viz. the Course of Salisbury) *Ecclesia sequuntur, magno & prudenti rerum ex sacris scripturis, & probatis Ecclesie historiis delictu, distribuit & digessit*; if these, I say, might do it on their own motion, there is no question, such of the Clergy as were appointed by the King, might on his desire take it into consideration, and remove matters offensive, or lesse to edification.

24. Neither did Queen *Elizabeth* at the beginning of her reign <sup>b</sup> alter some passages in it, but by the opinions of Divines *eruditiss & moderatis*; to whom was added a learned Knight *St Thomas Smith*, to whose care the supervising of it had by the house of Commons been committed the second of *Edward* the sixth, and therefore knew better then any other to give an account of that book.

<sup>b</sup> Camden.  
*Annales Eliz.*

Nor did her self, or the house of Lords use differing wayes, when the Commons at other times have sought some change in the Ecclesiastick government; as the 23. and 27. of her reign, where though the Lord Treasurer made a short beginning, yet he left the satisfactory answers to be given them by th' Archbishop of York.

<sup>c</sup> Journ. des  
Cōes 23. Eliz.  
March 3. & 7.  
& 27. Eliz.  
Februar. 25.

Insomuch as we may safely conclude, when the Clergy in Convocation styled *Henry* the 8<sup>th</sup> *Ecclesie Anglicanae protectorem unicu, & supremum dominum, & quantum per Christi leges licet, supremum caput*, they added nothing new unto him but a title; for he and his successors after it, did never exercise any auctority in causes Ecclesiastick, not warranted by the practise of former Kings of the nation.

By all which the second question remains sufficiently proved, that our Kings were originally endued with auctority to cause the English Church be reformed by th' advice of their Bishops, and other of the Clergy, as agreeing with the practise of all ages. For who introduced the opinion of Transubstantiation? made it an article of Faith? barr'd the Lay of the Cup? Priests of mar.

riage? who restored the Mass in *Queen Maries* dayes before any reconciliation made with *Rome*? but the Ecclesiasticks of this Kingdome under the Prince for the time being, who commanded or connived at it.

## C H A P. VI.

*How the Kings of England proceeded in their separation from Rome.*

**I**T being by what is already said undoubted, the Clergy called together by the Prince, or meeting by his allowance, have ever had a power of reforming this Church, commanding things *juris positivi* in it, and likewise dispensing with them, and that the statute 24. *Hen. 8. cap. 12.* that saith in effect as much, is no other then a declaration of the Common law, that is the custome of the realm; the next enquiry will be, for acquitting the Church of *England* in point of schism, how this separation from *Rome* was made.

2. *Henry* the 8<sup>th</sup> having long pursued a cause Matrimoniall with *Clement* the 7. who shewed so much compliance to determine it in his favour, as he sent Cardinall *Campeius* hither to joyn with *Wolsey* the Kings creature in the businesse, and upon the Emperours success in *Italy*, the cause, after many delayes, being revoked to *Rome*, the King, upon the opinions of many foreign Divines of the invalidity of his marriage with *Queen Katharine*, caused the case to be determined by the *English* Church: which judgement yet he would have in some measure submitted to the Court of *Rome*, so as he might have given the persons to whom it was delegated by the Pope full information, and the  
Cardinalls

Cardinalls of the Imperiall faction excluded having any part in the decifion. But *Clement* hearing what had paff in *England*, with more then ordinary haft determines the caufe againft him: which how much it would irritate any Prince of fo great power, and fo high a fpirit as our *Henry*, I fhall leave others to judge. And here I might alledge many forreign examples, of thofe who upon leffe indignities have ftopt all entercourfe with *Rome*, as \* *Lewis* the 12. and *Henry* the 2. of *France*, if I had undertook to write an apology for him.

3. The King, upon the advertisement of thefe proceedings by the Pope, which was at the beginning of the year 1534, falls firft to thofe courfes his auncestors had formerly done, when they had occafion to know how they ought to comport themfelves in any thing towards *Rome*, which was to have the advice of the *Engliſh* Church; and thereupon wrote to the Universities, great Monafteries and Churches of the Kingdome, &c the 18. May 1534. to the University of *Oxford*, † requiring them, like men of virtue and profound literature, to diligently intreat, examine, and difcuſſe a certain queſtion, viz. An Romanus Epifcopus habeat majorem aliquam jurisdictionem ſibi collatam in ſacra Scriptura in hoc regno Angliæ, quam alius quivis externus Epifcopus; and to return their opinion in writing under their common ſeal, according to the meer and ſincere truth of the ſame, &c. To which, after mature deliberation, and examination not onely of the places of holy Scripture, but of the beſt interpreters, for many dayes, they returned answer the 27. June 1534. (without all peradventure according to the ancient tenet of the *Engliſh*) Romanum Episcopum majorem aliquam jurisdictionem non habere ſibi à Deo collatam in ſacra Scriptura in hoc regno Angliæ, quam alium quemvis externum Episcopum. Of this answer I have thought fit to make particular mention, (though aſſented to by all the *Engliſh* Clergy) becauſe *Oxford* hath been

\* Whoſe coin is yet extant, having on one ſide his picture, and an inſcription ſhewing him to be King of France and Naples, on the other the armes of France, and theſe words, Perdam Babylonis nommen. Thuanus lib. 1. p. 11. c. † In archivis Oxon. ad Annum 1534. p. 127. &c.

ever

<sup>a</sup> Mat. Paris  
Anno 1252.  
p. 8; 9, 3. &  
Anno 1257.  
p. 945, 23.  
<sup>b</sup> Rot. Parl.  
1. Hen, 6. n.  
43.

<sup>c</sup> Hen. Knighton  
col. 2671,  
24. col. 2742,  
23.

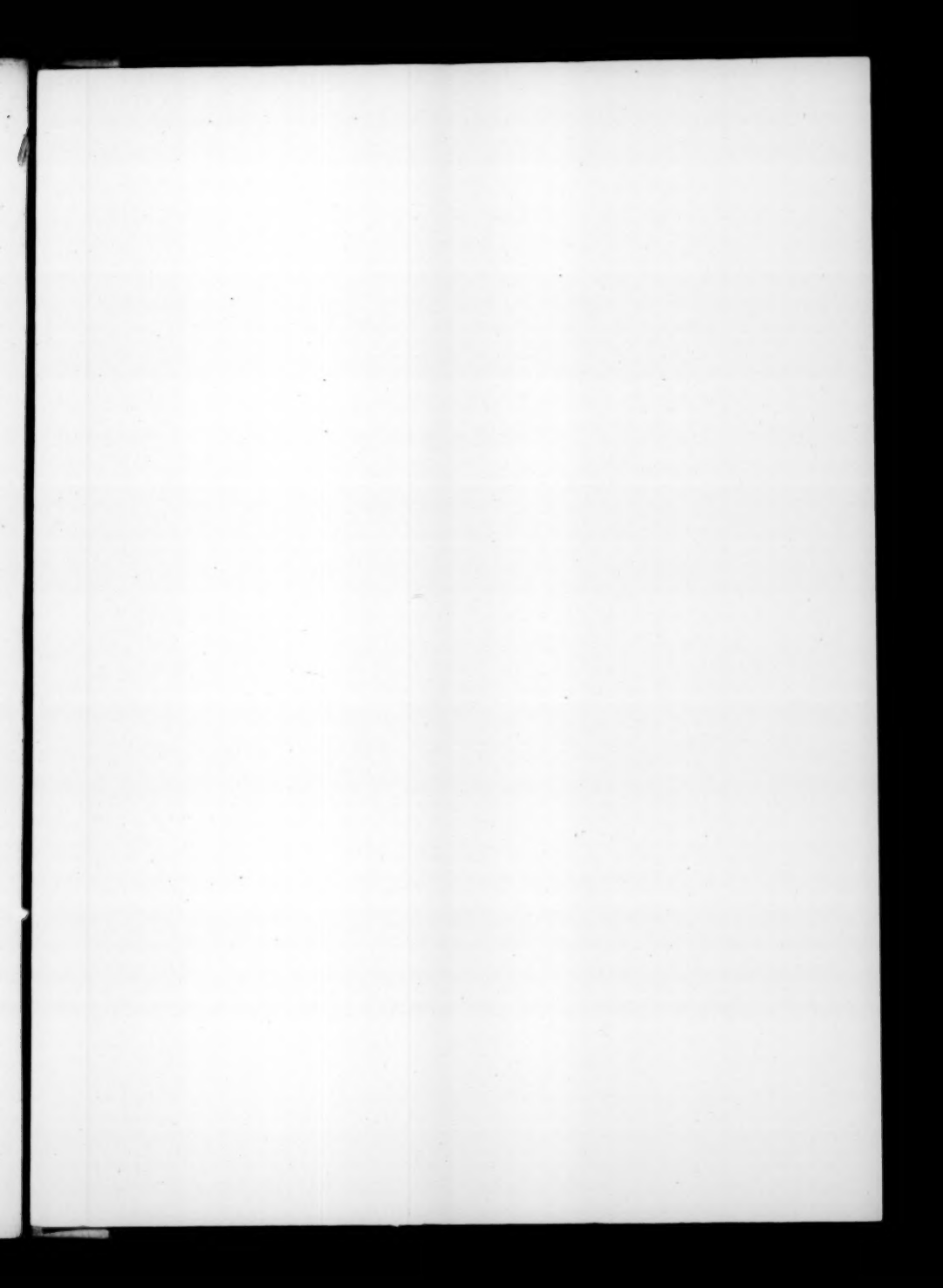
<sup>d</sup> Walsing.  
Hist. Anno  
1408. p. 420,  
1.

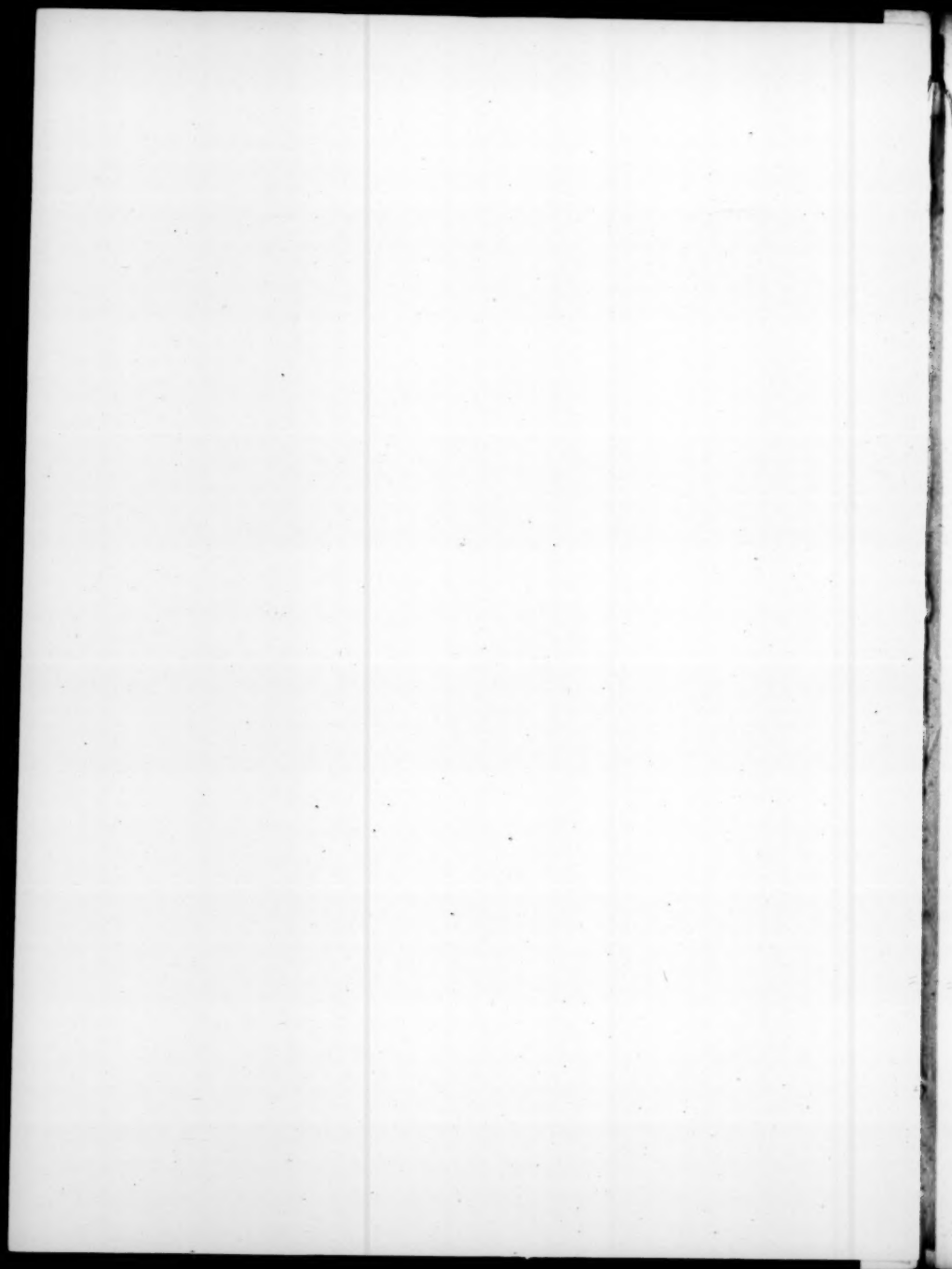
<sup>e</sup> In fasciculo  
zizaniorum  
Mss. in bibli-  
otheca Archie-  
piscopi Arms-  
ebani.

<sup>f</sup> Circa mate-  
riam excom-  
municationum  
resolutio, consi-  
derat. 11. 10. 2.  
col. 349. a. Ed.  
Paris 1606.

ever <sup>a</sup> held *amula Parisiensis, Ecclesie fundamentum*,  
<sup>b</sup> *fountain & Mere de nostre foy Chrestienne*, as I formerly  
touched: whose opinion the English Church hath  
therefore highly esteemed, and sought on all occasions  
of this nature; of which to give some examples.

4. Upon the election of *Vrbane the 6. France, Scotland, Flanders*, and divers other parts adhering to *Clement*, who resided at *Avignon*, <sup>c</sup> the French King 1395. caused a meeting of the Clergy of his dominions, to search whether had the better right to the Papacy: whose judgment was for *Clement*; which under the seal of the University of *Paris* was sent to *Richard the 2.* who thereupon *fecit convocationem Oxoniæ de peritioribus Theologis tam regentibus quam non regentibus totius regni*, and they on the contrary judged *Vrbane* to have the better title; whose opinion under the seal of the University of *Oxford* returned to the King was by him transmitted into *France*. 1408. <sup>d</sup> *in Concilio Cleri celebrato Londoniis, assistentibus doctoribus Vniversitatum Cantabrigiæ & Oxoniæ, tractatum est de censu & obedientia Papa subtrahendis vel non subtrahendis*: about which time twelve of the University of *Oxford*, on the Archbishops desire, in the name of the rest, examined the books & Doctrines of *Wickliffe*, & sent their resolutions to a Synod at *London* in an epistle yet <sup>e</sup> extant. By all which it is manifest, how much their opinions were esteemed in this Kingdome. And I hold it undoubted, a Prince following so great advise, chalked out to him by the practise of his ancestors, could not be guilty of so heinous a crime as schism, arising onely from disobedience to any spirituall superior whatsoever. <sup>f</sup> *Gerson* sayes, a private person runs into no contempt of the Keyes in divers cases by him enumerated; as one, *dum dicit aliquis juristarum vel theologorum juxta conscientiam suam, quod hujusmodi sententia non sunt timenda vel tenenda, & hoc præsertim si observetur informatio seu cautela debita, ne sequatur scandalum pusillorum, qui asti-*  
*mant*







*manant Papam esse unum Deum: And Navar, the greatest Canonist of his time, & qui unius doctoris eruditione ac animi pietate celebris auctoritate ductus fecerit, aliquid excusatur, etiamsi forte id non esset justum, & alii contrarium tenerent.* And to this purpose many more Doctors may be alledged.

5. This as it was done by him, so he was led unto it by the example of his predecessors, as I have partly toucht before; and shall therefore alledge no other, but that in the disputes between *Becket* and *Henry* the 2. the Archbishop endeavouring to interesse *Alexander* the 3. in the difference, that Prince <sup>b</sup> caused it to be written unto him, *Sijuri vestro vel honori prajudicatur in aliquo, id se totius Ecclesie regni sui consilio correcturum in proximo pollicetur*: and a little after, <sup>i</sup> *Domini Rex plurimum sibi justificare videtur, cum in omnibus quae dicta sunt, Ecclesie regni sui consilio simul & iudicio se pariturum pollicetur.* And this the often repeating of it, not onely in a particular letter of the Bishop of *London*, but of all the Bishops of the Province of *Canterbury*, both to the <sup>k</sup> Pope and *Becket*, enough assure us how undoubted it was in those dayes, that our Kings following the advise of the *English* Church, did proceed on safe grounds for their justification in such quarrells.

6. Neither was the opinion returned by these Divines so differing from the writings of other learned men, as might make them any way guilty of schism. <sup>l</sup> *Gerson* speaking of the severall degrees of Divine truths, places for the first such as are expresse in Scripture, secondly those that are by evident consequence deduced from thence, thirdly such as being delivered by *Christ*, have been by the constant tradition of the Church derived to us, of which he holds this proposition, *Vniversalis Ecclesia Pontifici Romano subjecta sit*; and adds, *non enim posset evidenter aut per consequentiam pure de fide ex legibus primi generis humana deductione sulcari, &c.* and

<sup>g</sup> *Navar. cap. cum contingat de Rescrip. remed. 2. n. 30. to. 2. editionis Colon. Anno 1616. p. 59. col. 1. §. nono.*

<sup>b</sup> *Hoveden Anno 1166. fol. 287. b. 48.*

<sup>i</sup> *Ibid. fol. 288. 8.*

<sup>k</sup> *Apud Hoveden fol. 292. b. 11. 49. 293. a. 33.*

<sup>l</sup> *Gerson de vita spirituali anima corol. 7. to. 3. col. 183. b. c.*

Cont. de  
potestate Pon-  
tificis ad Ni-  
cholaum Teu-  
polum.

Contarenus, in a small tract de potestate Pontificis, of that question sayes, *An Auctoritas illa & potestas, qua Pontifex maximus fungitur, sit ei consensu quodam hominis tributa, an potius divinitus tradita; qua de re hisce temporibus maximos tumultus excitatos esse perspicimus, nec etiam veriti sint viri in omni disciplinarum genere celebres, ac in Christiana Theologia studio illustres, in magno hominum conventu asserere, hoc jus Pontificis humanum esse; & then adds that he ab horum hominum sententia maxime dissentire, ac prope compertum habere, divinitus concessum esse Pontifici jus illud &c.* So that this learned Cardinall was not altogether resolved in the point, but as a disputable question had it *prope compertum*. The truth of which I leave him to dispute with the Orientall Christians. It is manifest, *m Francis* the first was of the contrary judgement; and our Countryman *m Stapleton* delivers it as a Catholick *tenet* of former times, (undoubtedly agreeing with that of the *English Church*) *non divino, sed humano jure, & positivis ecclesie decretis primatum Romani Pontificis mti &c.*

m Sleidan lib.  
9. prope finem.  
n Staplet. de  
principiis fidei  
lib. 13. cap. 15.  
§. Dixeram.

\* Hen the viii.

7. But I return to our \*King, who now fortified by the opinion of the Universities, publick disputations in the convocation, and severall precedents of former Princes his predecessors, in his rights, whereas the Parliament before in some particulars restrained the profits of *Rome*, as in the payments of *Annates, Peter-pence*, making *Appeals* to it, whose beginnings with us I have formerly noted, did <sup>o</sup> the 26. *Hen. 8.* 1533, declare *his May, his heirs and successors, Kings of this realm, shall have full power & authority from tyme to tyme to visit, repress, redresse, &c. all such errors, heresies, abuses, &c. which by any manner spirituall authority or jurisdiction may be lawfully reformed, repressed, ordered, redressed, &c.* This the Court of *Rome* interpreted a falling off from the Church, and the *English* no other then a declaration of that right had ever resided in the Crown, and which I believe it will be a difficult task to disprove them in,

o Stat. 26.  
Hen. 8. cap. 1.  
began the 3.  
November and  
ended the 18.  
December  
1533.

8. For

8. For those two articles *p Paulus* 3. accuses the King of, as Hereticall and schismaticall, viz. *quod Romanus Pontifex caput ecclesia & Christi vicarius nomen erat, & quod ipse in Anglica ecclesia supremum caput existeret &c.* for the first, I never heard it affirmed by the King in that generality the words import; for the Pope is a temporall prince, as well as a spirituall father; and so far as I know he never denied him to be the head of the Church of his own dominions, nor of *France* and *Spain* &c. if those Kingdomes will admit him to so great a preeminence: the thing he onely stood upon is, that he was not so instituted by Christ Universall Bishop, and had alone from him such an omnipotency of power, as made him absolute Monarch in effect of the universall Church, and was so in *England*. For his being vicar of *Christ* in that sense other Bishops may be said to be his vicegerents, (as *q* before) I do not see how it can be well denied him; but that this Vicarship did import the giving him that power he did then exercise here, is what the Church of *England* hath ever constantly denied. As for the Kings being Head of the Church, I have before shewed he neither took it, nor the Parliament gave it, in other sense then the *French* have alwayes attributed it to their Princes: neither for ought I find was it so much sought by King *Henry*, as prest on him by the Clergy, of which the Bishop of *Rocheſter* was one that subscribed to it; and his Ancestors did the same things before, he did after, under the names of *Protectors, Tutors, Christi vicarii, Domini Agricola, &c.*

9. For the other particulars mentioned in the Bull, as his beheading the Bishop or Cardinall of *Rocheſter*, the burning of *Beckets* bones, the taking the treasure and ornaments at his Shrine, to which may be added the suppressing, and converting into Lay hands the Monasteries of the Kingdome, I shall not say much, having not taken on me to defend that Princes actions. Yet for the

*p Bulla Pauli*  
3. in Bullario  
dat. 17. Ianuar.  
1538.

*q Cap. 3. n. 72.*

*Concil.*  
*Spelman. p. 437.*  
*cap. 7. 8. Scid.*  
*notis ad Hist.*  
*mer. p. 175. 76.*  
17.

*1. Rot. Parl.  
feff. S. Millair  
25. Ed. 3. n. 60.  
petitions de  
Clergy.*

*1. Flor. Wi-  
gorn. Anno  
1070.  
1. Neubrigen-  
sis lib. 4. cap.  
38.  
2. Hoveden.  
Anno 1198.  
fol. 444. a 8.  
3. Wallingh.  
anno 1296. p.  
29, 24.  
4. Gervas.  
Doroborn.  
eql. 1554. 44.*

taking off the head of *Rocheſter* (if he were convict of treaſon) I muſt give the anſwer \* of *Edward* the 3. to the Clergy in that kind, *en droit de Clerks convictez de treaſon; purceo qe le Roy, & tousz ſes progenitors ount eſte ſeiſis tus temps de faire jugement & execution de Clericz convictez de treſon devers le Roy & ſa Royale Mageſte, come de droit de la corone, ſi eſt avis au Roy, qe la ley en tien cas ne ſe poeſt changer:* and then he cannot be ſaid to have dyed otherwiſe then by law. As for the goods and ornaments of Churches by him layd hold on, it is certain, his predecessors in their extremities had ſhew'd him the way; as the 1 Conquerour, who took all the ready money was found in Religious houſes; *1 Richard* the firſt, who took all, to the very Chalices of Churches, and yet th' Archbiſhop afterwards *\* regio munimine ſeptus — univerſos monachorum* (to wit, of *Chriſt Church*) *redditus & oblationes tumba beati martyris Thomæ fecit ſaiſiari in manu Regis;* \*and *Edward* the firſt 1296, *fecit omnia regni monaſteria perſcrutari, & pecuniam inventam Londonias apportari, fecit que lanas & corias arreſtari, &c.* And in thoſe dayes Biſhops did tell Kings, *1 Theſaurus eccleſia veſter eſt, nec abſque veſtra conſcientia debuit amoveri:* to which the King, *verum eſt, Theſaurus noſter eſt ad deſenſionem terra contra hoſtes peregrinos &c.* And perhaps it would be no hard labour to ſhew, all Princes, not onely here, but elſewhere, to have had (how juſtly I will not determine) a like perſuaſion. And he then being excommunicated by *Paulus* 3. for maintaining what the Crown had ever been in poſſeſſion of, can no way be ſaid to have departed from the Church; but the Pope to have injuriouſly proceeded againſt him, who maintained onely the juſt rights and liberties of his kingdome, according to his coronation oath.

10. And this is the caſe, and fully anſwers (ſo far as it appears to me) whatſoever can be objected againſt the reformation begun by him, or made more perfect by

*Edward*

# Chap. VI. of the Church of England. 125

Edward the 6. for the manner of doing it, viz. *that they, as supreme Princes of this Kingdome, had a right to call together their own Clergy, and with their advise, to see the Church reformed by them.* And if otherwise, I should desire to know how the Masse without any intermission was restored by Queen Mary: for it is manifest, she returned the use of it immediately after her brothers death, & yet Cardinall *Pool* reconciled not this Kingdome to Rome till the 30<sup>th</sup> of November above a year after, and then too \* on such conditions onely as the Parliament approved; during which space, she as Queen gave <sup>a</sup> directions to the Ordinaries how they should carry themselves in severall particulars; which as it is probable she did by th' advice of her Bishops, so there is no reason to condemn the like proceedings in Edward the 6.

\* Stat. 1. 2. P.  
 & Mar. cap.  
 8.  
 a See Fox,  
 vol. 3. p. 38.


11. I have before shewed how far the royal power went in compiling the book of Common prayer: for a Catechism published by the same Prince, it being composed by a learned person, presented to his Maty, and by him committed to the scrutiny of certain Bishops and other learned men, *quorum judicium* (sayes <sup>b</sup> his Maty) *magnam apud nos auctoritatem habet*, after their allowance it was by him recommended to be publicly taught in Schools. Likewise the Articles for taking away diversity of opinions in points of religion, were agreed upon in a Synod at London by the Bishops and other learned men, & *Regia auctoritate in lucem editi*. The King in framing them taking no farther on himself, then he had in the book of Common prayer. And Queen Mary, though she quitted the title of *head of the Church* (which yet she did not so suddenly as *Saunders* intimates) did in effect as much. So that hitherto there is no way of fixing any schism on the English Church, for neglect of obedience, it having been ever subject to the Archbishop of Canterbury and others its lawfull superiors, restoring to him the ancient right belonged to his chair, of being

<sup>b</sup> *Litera ante Catechismum directis omnibus Ludimagistris, & iis qui scholas grammaticas aperiant, dat. 20. Maii anno regni 7.*

Cap. 3. v. 80. their spirituall pastor next and immediately under *Christ Iesus*. But the Kingdome being re-united to the See of *Rome* by *Queen Mary*, though what I have said doth in a good part free it of schism, yet in respect the reformation I onely took upon me to defend was made by *Queen Elizabeth*, and continued since, it will be necessary to make some more particular mention how it did passe.

## C H A P. VII.

*How the reformation was made under Queen Elizabeth.*

I.  *Elizabeth*, the daughter of *Henry* the 8<sup>th</sup> by *Queen Anne Bolen*, being received by all the estates of the Kingdome, (assembled in Parliament) and proclaimed Queen, caused her sisters Ambassador, *S<sup>r</sup> Edward Kerne*, then residing at *Rome*, to give an account of this her being called to the Crown to *Paulus 4<sup>th</sup>* the Pope; who being in union with *France*, and out with the house of *Austria* then strictly joyned with *England*, and both at odds with the *French*, told him, either perswaded by them, or upon his own heady disposition, *England was a Fee of the Church of Rome; That she could not succeed, as illegitimate; That he could not go against the declarations of Clement the 7. and Paulus 3<sup>rd</sup>; That her assuming the name and government without him, was so great an audacity, she deserved not to be hearkned to. But he being willing to proceed paternally, if she would renounce her pretensions, and freely remit her self to his arbitrement, he would do what lay in his power with the dignity of the Apostolick See.* A strange reply to a civil message, were it not derived to us by an unquestionable hand, and that it came from

a Hist. Council  
of Trent Ital.  
lib. 5. Anno  
1558. p. 399.  
edit. Lond.  
1619. & Ge-  
neva p. 420.



from Paulus <sup>4<sup>um</sup></sup> to whom it was not an unusuall saying,  
<sup>b</sup> that hee would have no Prince his companion, but all  
 subjects under hys foot. Upon this unwillingnesse to ac-  
 knowledge her Queen at Rome, th' Archbishop of York  
 ( who had before <sup>c</sup> affirmed no man could doubt of the  
 justnesse of her title ) and the rest of the Bishops refused  
 to Crown her. As for that <sup>d</sup> some write, it was because they  
 had evident probabilities she intended cyther not to take, or  
 not to keep the oath was then to be administred unto her, espe-  
 cially in the particular of not maintaining holy Churches  
 lawes, in respect she had shewed an aversenesse to some cere-  
 monies, as commanding the Bish. of Carlile not to elevate  
 the consecrated Host, ( who stoutly refused her ) and out of  
 fear she would refuse in the time of her sacre the solemn di-  
 vine ceremony of *Vnction*; these are certainly without a-  
 ny colour, and framed since. For as for the last, the ce-  
 remony of anointing, she had it performed; as had King  
*James* who succeeded her, who <sup>e</sup> would not have his  
 Queen crowned in *Scotland* without it. For the other,  
 it is altogether improbable that he to whom the com-  
 mand was by her given, would, of all the rest have assen-  
 ted to crown her, had he conceived that a cause why it  
 might have been denied: neither indeed did she alter  
 any thing materiall in the service of the Church, till after  
 the conference at *Westminster* 1559. the 31. *March*, and  
 the Parliament ended.

2. To passe therefore by these, as excuses found out  
 after the deed done, the true reason being (no question)  
 something came from the Pope, in pursuance of that  
 answer he had given her Agent; the Queen seeing she  
 could expect nothing from the Papacy, laboured to  
 make all safe at home, or, to use her own phrase, to take  
 care of her own house; and therefore (as she had reason)  
 desired to be assured of her subjects fidelity, by propoun-  
 ding an oath to certain of them, ( which is seldome a tie  
 to other then honest minds. ) But the way (mens minds  
 distracted

<sup>b</sup> Ibid. paulo an-  
 te eodem libro.

<sup>c</sup> His speech at  
 the making  
 known  
 Queen Mariæ  
 death to the  
 Commons, in  
 Camden. Ho-  
 linshead, Graf-  
 ton, & aliis  
<sup>d</sup> The defence of  
 the Catholicks a-  
 gainst the book  
 styled The Exe-  
 cution of Ju-  
 stice in Eng-  
 land, pag. 51.

<sup>e</sup> See Spots-  
 wood's History  
 of the Church of  
 Scotland, p 381.

f Stat. 28. Hen.  
the 8. cap. 10.

g Journ. des  
Coes 1. Eliz.

distracted in points of religion, the *l* law of Henry the 8. (extinguishing the auctority of the Bishop of Rome) being very severe, for securing himself, in bringing such as did but extoll the said auctority, for the first offence, within the compass of a *pramunire*, and that refused to take it, of treason, ) was not easy to be pitcht upon: besides styling the King *head of the Church*, which many made a scruple at; to g which effect a bill being presented to the house of Commons the 9. of February, after many arguments had upon it, the 13. of February upon the second reading it was absolutely dasht, and upon great consideration taken the 14. Febr. a Committee appointed to draw a new Bill, in which an especiall care was taken for restoring onely the ancient jurisdiction of the Crown, and the Queen neither styled *supreme Head*, nor the penalty of refusing the Oath other, then the being excluded from such places of honour and profit as they held in the Common-wealth: yet with this *proviso*, that he who had an estate of inheritance in a temporall Office, & refused to take the said oath, did after upon better perswasion conform himself, should be restored unto the said estate; and that such as should maintain or defend the auctority, preeminence, power or jurisdiction, spirituall or ecclesiasticall, of any forreign Prince, Prelate, Person, State or Potentate whatsoever (not naming the Pope, as her father had done) should be three times convicted before he suffered the pains of death.

3. This Bill, which no doubt the Popes carriage drew on, being expedited in the house of Commons, received reformation by the Lords, committed the 13. March to the Lord Marquess of Winchester, Lord Treasurer, the Duke of Norfolk, the Earls of Westmorland, Shrewsbury, Rutland, Suffex, Penbrook, viscount Mountague, Bishops, Exeter, Carlisle; Barons, Clynton Admirall, Morley, Rich, Willoughby, North, no one of them then noted for Protestantisme; the 18. March past the Lords, none dissenting but

## Chap. VII. of the Church of England.

429

but 8. Bishops, the Earl of *Shrewsbury*, Viscount *Mountague*, and the Abbot of *Westminster*: and the same day sent to the house of Commons, who upon perusal found again what to amend it in; so as it had not it's perfection in both Houses till Saturday the 6<sup>th</sup> of *May* (when the Parliament ended the Monday following) at which time onely Viscount *Mountague* & the interested Clergy opposed it. By which it cannot be questioned, but the generality of the Lords did interpret that law, no other then, as indeed it was, a restoring the Crown to it's ancient rights; for if otherwise, without doubt there would have been as great an opposition at least made against it, as some other statutes which past that Parliament met with, that the Marquess of *Winchester*, the Lords *Morley*, *Stafford*, *Dudley*, *Wharton*, *Rich*, *North*, joyned with the Earls of *Shrewsbury*, Viscount *Mountague*, and the Prelats, to have stop't.

4. But whereas some were induced to think by the generality of the words, that affirm her Highness to be *supreme governour as well in all spirituall or ecclesiasticall causes as temporall*, as if it had been an usurping upon the sacred function in the interior (as I may say) of the Church, properly belonging to them in holy Orders, her Ma<sup>y</sup> the same year <sup>b</sup> did declare, *She did not challenge any other auctority then was challenged and lately used by King Henry the 8<sup>th</sup> and Edw. 6. which is, and was of ancient time due to th' imperiall crown of this Realme; that is, under God to have the Sovereignty and rule over all manner of persons born within these her realms, &c.* And that to be the onely sense of the Oath she caused to be confirmed the next <sup>i</sup> Parliament; at which time a Synod being held, for avoiding diversity of opinions, and establishing of consent touching true religion &c. it did expicly declare, <sup>k</sup> they did not give to our Princes the ministring either of Gods Word or the Sacraments, — *But that onely prerogative is given in holy Scripture by God himself, that*

<sup>h</sup> The Admonition in Injunctions  
1 Eliz.

<sup>i</sup> 5 Eliz. cap. 1.

<sup>k</sup> Art. 37.

is, that they should rule all estates and degrees committed to their charge by God, whether they be ecclesiasticall or temporall, and restrain with the civill sword the stubborn and evil-doers, &c. And these articles were likewise confirmed by Parliament 13. *Eliz.* cap. 12. so that no man can doubt this to have been other then an acknowledgement, what Princes had done formerly in all ages might be justly continued; not an introductory of a new law, but the assertion of the old right of our Kings.

5. Another matter of great weight then likewise expedited was, the settling the publick service of the Church in one uniform way. King *Edward* the 6. intending such a reformation as might serve for edification, caused certain pious and learned men to meet together, who (as it seems) taking for their pattern the practise of the primitive times, casting out of the Liturgies then used such particulars as were any way offensive, shew'd their scope to be, what they pretended, to reform, not make a new Church or Service; and thereupon had, by the aid of the holy Ghost, (as the Act of Parliament speaks) concluded on, and publisht the *book of Common prayer*, with a form of administration of the holy Communion, commonly called the *Mass*. But nothing humane is perfect at first: this Book some few years after received in his time alteration, and the word *Mass* (I know not why more offensive in it then the *Augustane* Confession) expunged, with some other phrases in it.

6. But for the better understanding how Queen *Elizabeth* found this Church, it will not be amiss to look a little back. *Henry* the 8. dying in *January* 1547, leaving the *Roman Service*, with some alterations not greatly considerable in it, the wisdom of the State (however intending a farther reformation) was not immediately to abolish it; so as the Lords meeting in Parlt. 1547. *November* the 4. though they had the *Mass* sung in *English*, yett the Liturgy of the Church was not common in that language.

1 Stat. 2. 3.  
Ed. 6. cap. 1.

in Cap. de  
Missæ. Retine-  
tur Missæ a-  
pud nos, &  
summa reve-  
rentia celebra-  
tur.

## Chap. VII. of the Church of England.

131

language till after *Easter* 1548. This Session continuing till *December* 23. restored the Communion in both kinds, upon which certain learned men by appointment met at *Windsor*, to consider of a decent Form for the administration of it; which in *March* his Maty gave out backt with a Proclamation, so as at *Easter* it began (without compulsion of any,) to be put in practise, and after *Easter*, severall parochiall Churches to celebrate divine Service in *English*, which at *Whitsuntide* was by command introduced into *Paul's*; but hitherto no book of Common prayer extant, onely the manner of administring the holy Eucharist somewhat altered.

7. During this while, the Archbishop of *Cant.* 6. Bishops, 3. Deans Doctors, and 3. other onely Doctors, were busied in reforming the publick Liturgy of the Church. *John Calvin* of *Geneva*, a person then of high esteem, advertised of it, thereupon wrote to the Duke of *Somerset* the 22. *October* 1548, giving his judgement in these 4 words [*quod ad formulam precum & rituum ecclesiasticorum, valde probo ut certa illa extit, à qua pastoribus discedere in functione sua non liceat, tam ut consulatur quorundam simplicitati & imperitia, quam ut certius ita conslet omnium inter se ecclesiarum consensus, postremo etiam ut obviam eatur desultoria quorundam levitati qui novationes quasdam affectant.*] and taking notice of the form already had for celebrating the Communion, adds this, *Audio recitari isthic in Cœna celebratione orationem pro defunctis, neque vero hoc ad purgatorii Papistici approbationem referri satis scio, neque etiam me latet proferri posse antiquum ritum mentionis defunctorum faciendæ, ut eo modo communio fidelium omnium in unum corpus conjunctorum declaretur; sed obstat invictum illud argumentum, nempe Cœnam Domini adeo sacrosanctam esse, ut ullis hominum additamentis eam conspurcare sit nefas.*

\* *Iohan. Calvin. Epist. 87.*

8. This Letter received about the \*beginning of the

S 2

Parliament,

\* Note, the printed book of statutes is, as if their meeting

were the 4. November: which I conceive is wrong, as not at all agreeing with the Journall.

Parliament, which met the 24. of *November* 1548. may have been the cause of deferring th' exhibition of it to the House of Commons till the 19. *December* 1548. when the consideration of it was referred to *St Thomas Smith*, his *Majties* Secretary, and a very learned Knight, who returned it back again the 19. *January*, having kept it by him a full moneth; after which it was expedited and printed in *March* following, and the 6<sup>th</sup> of *April* 1549. the Mass by Proclamation removed. But this book was not so perfect, as it yielded no exceptions, whether just or not I shall not hear examine, I know learned men have judged variously: it shall suffice me to say, it was again revised by *Bucer* (a great patron of Discipline, and Martyr, both in *England*,) and reprinted 1552. and to ought in or of this second edition during King *Edwards* reign I have not heard any Protestant did ever except.

9. In Queen *Maries* time divers learned men retired from the heat of Persecution, and by the favour of the Magistrate permitted a Church 1554. at *Frankford*, laboured to retain this Liturgy; whom *Knox*, *VWhittingham*, and some others opposed so far, as one *Haddon* desired to be their Pastor, excused himself, and *Mr. Chambers* coming for that end from *Zurick*, finding it would not be allowed, retired back again, and xvi. learned men then at *Strasburgh* (amongst which this *Haddon*, *Sandis* afterward Archbishop of *York*, *Grindall* of *Canterbury*, *Christopher Goodman* famous for his book of Obedience) remonstrated unto them, *That by much altering the said book they should seem to condemn the framers, now ready with the price of their blood to confirm it, should give their adversaries occasion to accuse their doctrine of imperfection, themselves of mutability, and the Godly to doubt of what they had been perswaded; that the use of it permitted they would joyn with them by the first of February*: their Letter bearing date the 23. of *November* 1554.

10. But nothing could move them to belike Saint  
*Paul*,



## Chap. VII. of the Church of England.

133

*Paul*, all things to all that he might gain some, or relent any thing of their former rigour; onely a Type of it drawn into Latine was sent to *Calvin* for his judgement, who returned an answer the 18. January 1557. somewhat resembling the *Delphick* oracles, *That the book did not contain the purity was to be wisht; that there were in it ineptias, yet tolerabiles; that as he would not have them be ultra modum rigidos, so he did admonish others ne sibi in sua inscitia nimis placeant, &c.* And here I cannot deny to have sometime wondred, why in these disputes the opinion of *Peter Martyr*, then at *Strasburgh*, a person for learning no lesse eminent, was never required: but I have since heard him to have been alwayes a profest patron of it, as one by whose care and privity it had been reformed.

1 Corinth. ix. 22.

Epist. 200.

11. Whilst matters went thus in *Germany*, certain learned men at *Geneva* were composing a Form for the use of the *English Church* there, which 1556. was printed by *Crispin*, with this title,

*Ratio & forma publice orandi Deum atque administrandi Sacramenta &c. in Anglorum ecclesiam, quae Geneva colligitur, recepta, cum judicio & comprobatione D. Iohannis Calvini.*

But this did not satisfy all, for *Mr. Lever* coming to *Frankford* to be their Minister, requested they would trust him to use such an order as should be godly, yet without any respect to the book of *Geneva* or any other. But his endeavours were soon rejected, as not fit for a right reformed Church, and the book it self hath received since sundry changes from that first type.

12. In this posture *Queen Elizabeth* found the Church, the Protestant party abroad opposing the book of Common prayer, few, varying in judgement, not at unity with themselves, nor well agreeing what they would submit unto: She hereupon caused it to be again revised by certain moderate and learned men, who took a

great care for removing all things really lyable to exception; and therefore where *Henry* the 8. had caused to be inserted into the Letany, *to be delivered from the Tyranny of the Bishop of Rome & all his detestable enormities*, which remained all King *Edwards* time, this, as what might give offence to that party, was thought fit to be strook out; and wherein the delivery of the Eucharist the first book of *Ed.* the 6. had onely this clause,

*n* The first  
book of *Ed.* 6.  
fol. 130. b.

*"The body of our Lord Jesus Christ which was given for thee preserve thy body and soul unto everlasting life, and at the giving of the Cup no other then The bloud of our Lord Jesus Christ which was shed for thee preserve thy body and soul unto everlasting life, and the second book which was in force at his death had removed those two clauses, and instead of them inserted Take and eat this in remembrance that Christ dyed for thee, and feed on him in thy heart by faith with thanksgiving, and accordingly at the delivery of the Cup, from whence some might, and perhaps did infer the faithfull Receiver not to have a real communication of Christs body, in taking the Sacrament, but onely a remembrance of his sufferings; it was now thought fit both expressions should be retained, that no man might have any just cause of scandall: for be Christs presence never so reall, even by Transubstantiation, in the holy Sacrament, we may upon o Saint Pauls warrant do it in remembrance of him.*

● 1 Cor. xi.  
24, 25.

Thus at the first of her reign matters in religion past with so great moderation, as it is not to be denyed very few, or none, of the *Romish* inclination (if they did at any time go to Mass,) refused to be present in our Churches during the time of Divine Service.

But of another thing that likewise past at the same time, it will be necessary to make some more particular mention.

C H A P. VIII.

*How Queen Elizabeth settled in this  
Kingdome the proceeding against Hereticks.*

1 **A**Nother particular; no small argument of the Queens disposition, fell into consideration this Parliament. Her <sup>a</sup> Sister had revived all the laws of former Princes against Hereticks, even that <sup>b</sup> of *Hen.* the 4. which her Father had on weighty considerations repealed, and all proceedings against them, till they came to their very execution, pertaining to the Ecclesiastick: how to find a means to preserve her subjects, and yet not leave a license to every old heresy, new invention, fanatick spirit, to ruffle the Church and trouble the world, was a matter of no small difficulty. But for the better understanding of what then past, it will be requisite to consider, how the condemning of Heresy and proceeding against Hereticks hath been, both here and elsewhere, how her Ma<sup>y</sup> found it abroad in the Christian world, and at home, how thereupon she settled it.

2. The words *Heresy* and *Heretick* were in the primitive Church not alwayes of so ill a sound as these later Ages have made them. <sup>c</sup> *S<sup>t</sup> Augustine* doth name some opinions for hereticall have small affinity with Divinity; and who shall read <sup>d</sup> *Philastrius* of Heresies, must needs approve <sup>e</sup> *Cardinall Bellarmin's* censure of him, that he accounts amongst them many are not properly Heresies, as the word is now taken. The first Councell .<sup>o</sup>. of *Constantinople* held 381. expressly affirms by the name of Heretick to understand such as professing the same faith, yet did make a separation from those

a 1. 2. P. M.  
cap. 6.

b 2. Hen. 4.  
cap. 15. re-  
pealed. 25. H.  
8. cap. 14.

c De Heresi-  
cis cap. 63.

d 70. 4. bibli-  
othec. patrum  
cap. 54. 82.  
e De Scriptori-  
bus.

f. Concil.  
Gen. Rom. 10.  
1. p. 88. cap. 6.

f. *Affs* xv.

g Euseb. lib.  
6. cap. 25. al.  
30.  
h Euseb. lib.  
7. cap. 25. &c.  
ad cap. 25. al.  
cap. 22, 23, 24.

i Euseb. lib.  
10. cap. 7.  
Socrat. pro-  
em. lib. 5.  
vide epist.  
Theodosii  
Cyrillo apud  
Baron. 10. 5.  
Anno 430. n.  
64.  
k Codex Theo-  
dos. lib. 16. de  
Hæreticis leg.  
1. Vide Euseb.  
de vita Con-  
stantini cap.  
61, 62. lib. 3.  
l Cod. Theod.  
lib. 16. de  
Fide Catho-  
lica leg. 2.

those canonicall Bishops were of their communion. But the construction what opinion was hereticall, did ever, so far as I have observed, belong to the spirituall Magistrate, who, after the pattern held out in *ſ* holy Writ, if any new erroneous opinion did peep, the neighbour Bishops and Clergy taking notice of it, did assemble, condemn it, and by their letters gave notice of what had past them to absent Churches: if the case were difficult, the presence of any famous Clerk was desired, who for settling peace (as who would not?) was easily drawn out of his own home; so was *ſ* Origen sent for into *Ara-  
bia*. And that this form continued in condemning He-  
resy till *Constantine*, seems to be very plain by the *h* pro-  
ceedings against *Paulus Samosatenus* and divers others,  
remaining yet in history, and the writings of the fathers.  
But for the prosecution of an Heretick farther then to  
avoid him, I know no example, till after God having  
given peace to his people under Christian Emperours,  
they *i* finding, if the Church were in trouble, the State  
to be seldome otherwise, did provide as well for the cal-  
ling of Bishops to Councils that might condemn He-  
resies, as by lawes to punish Hereticks.

3. The Council of *Nice* therefore having in the  
year 325. censured the opinions of *Arius* for hereticall,  
the Emperour that had formerly granted priviledges to  
Christians 326, declared *k hereticos atque schismaticos  
his privilegiis alienos &c.* and that no man might be de-  
ceived by the ambiguity of the word *Heretick*, *l Grati-  
an* and *Theodosius* in the year 380. did declare who one-  
ly were to be so reputed, *viz.* all who *secundum Apo-  
stolicam disciplinam evangelicamque doctrinam patris &  
filii & spiritus sancti unam deitatem sub parili majestate &  
sub pia trinitate credamus, hanc legem sequentes, Christi-  
anorum Catholicorum nomen jubemus amplecti, reliquos  
vero dementes vesanosque judicantes heretici dogmatis in-  
famiam sustinere:* and the year following did not onely  
in

# Chap. VIII. of the Church of England. 137

in January<sup>m</sup> renew the said Edict, but in July<sup>n</sup> commanded all Churches to be delivered those Bishops who held that profession, *nihil dissonum profana divisione facientes, sed Trinitatis ordinem, personarum adseriionem, divinitatis ordinem* &c. and for the more assurance, as a mark of their being orthodox, . did hold communion with the Catholick Bishops of any one seat there remembered, as *Damasus of Rome*, *Nectarius of Constantinople*, *Pelagius of Laodicea*, *Diodorus of Tarsus*, *Optimus of Antioch*, &c. *omnes autem qui ab eorum quos commemoratio specialis expressit fide communionis dissentiunt, ut manifestos hereticos ab ecclesiis expelli.* Which note<sup>o</sup> *Iustinian* likewise in the year 541. having prescribed, goes farther, that *sacram communionem in Catholica ecclesia non percipientes à Deo amabilibus sacerdotibus, hereticos juste vocamus.*

4. Before these lawes, it is not to be wondred if every one desired to be joyned in communion with some one of those seats, whose Bishops were so recommended, for conserving the Apostolick faith, for the sanctity of their manners, and for keeping schism out of the Church; which being usually joyned with sedition in the Commonwealth, <sup>p</sup> Princes seem to have an especial eye how it might be avoided, but after these Edicts they certainly did it much more: and there being in the world no Bishop more famous then the *Roman*, nor any other named in these parts of *Europe* then he, every one endeavoured to live united to that Church, whose form the Councell of *Nice* 325. (for before that, . *ad Romanam ecclesiam parvus habebatur respectus*, as *Pius secundus* writes) approving in distribution of the ecclesiastick government, and Emperours now in point of belief, the *Roman* Chair became so eminent, as, for to shew themselves orthodox, many, especially of the *Latins*, did hold it enough to live in the communion of that See, and the Fathers in that Age to give high expressions of being in

T

union

m Ibid. de  
Hæretic. leg.  
6.  
n Ibid. de  
fide Catholi-  
ca leg. 3. o. 2.

. Ibid. leg.  
2. 3. Annis  
300. 381. &  
ibid. de his qui  
religione con-  
tendunt,  
leg. 6.

o Novel.  
Const. 109.  
in prefat.

p Cod. Theo-  
dos. lib. 16.  
de his qui re-  
ligione con-  
tendunt, leg.  
6. 3.

. Aencæ Sil-  
vii Epist. 301.  
in edit. Lug-  
dani 1505. &  
Bellarmino e-  
pist. 288.

<sup>2</sup> Ambros.  
oratio de obitu  
fratris.

<sup>3</sup> Hieron. ad  
Damasum e-  
pist.

<sup>4</sup> Gregor.  
lib. 10. epist. 31.

<sup>5</sup> Cod. Theo-  
dos. lib. 16.  
de fide Catholi-  
ca leg. 2.

<sup>6</sup> De Roma-  
no Pontif. lib.  
4. cap. 5. §.  
Quod autem.

<sup>7</sup> Recognit.  
pag. 19. edit.  
1608. Ingol-  
stat.

<sup>8</sup> Regul. 13.

union with it. :: S. Ambrose shewing the devotion of his brother *Satyrus* in a tempest, adds yet farther as a mark of it, *Advocavit ad se Episcopum* — *perconsatusque ex eo est utrumnam cum episcopis catholicis, hoc est cum Romana ecclesia, conveniret*: and S. <sup>3</sup> Hierom, a person very superlative in praising and reprehending, writing about the same time to *Damasus*, *Ego nullum primum nisi Christum sequens, Beatitudini tue, id est cathedra Petri communione consocior* &c. and in the year 602. a certain Bishop returning out of schism *spontanea voluntate* did swear, :: he in *unitate sancta ecclesia catholica, & communione Romani Pontificis, per omnia perman-surum* &c. All which in time bred an opinion, that Chair could not entertain an error, and the beginning of the mark absolutely inverted; for those men who at first were, as others, sought unto <sup>9</sup> because they did conserve the religion S. Peter had planted in Rome, must in after-ages be onely held to maintain the same doctrine because they are in that See; so that the Doctrine did not commend the person, but the being in that seat, and recommended from thence, be it what it will, it ought to be received: insomuch as <sup>1</sup> Cardinall Bellarmine doubts not to write, *Si Papa erraret precipiendo vitia vel prohibendo virtutes, teneretur ecclesia credere vitia esse bona & virtutes malas, nisi vellet contra conscientiam peccare*: for which he was afterward forced to an Apology; yet is not in my opinion so absurd as the <sup>2</sup> rule left by certain religious persons 1606. to their confidants at Padua, containing *ut ipsi Ecclesia catholica* ( understanding the Pope ) *omnino unanimes conformesque simus: si, quod oculis nostris apparet album, nigrum illa esse definierit, debemus iidem quod nigrum sit pronuntiare* &c.

5. But to return whence I have a little digress't: it being plain by these lawes, the Emperours restrained points of Heresy to the Catholick Doctrine of the Father,



# Chap. VIII of the Church of England. 139

Father, Son and holy Ghost, the ground of the four first generall Councils; and others not to be esteemed hereticks: in which sense I conceive sundry of the ancients take the word; as \* S. Hierome, when he sayes all Hereticks leave God; and Socrates, when he agrees such as \* condemned Origen, finding not to blame his opinion of the holy Trinity, must confesse he held the right faith: and Leo the first, when in an epistle about 449. he exhorts the Emperour Theodosius to consider the glory of S. Peter, the Crowns of the Apostles, *cunctorumque Martyrum palmas, quibus alia non fuit causa patiendi, nisi confessio vera divinitatis, & vera humanitatis in Christo*, doth intimate the true faith to be contained in that profession. After these restrictions in the declaration of Herefy, it is likely divers Sects grew very audacious, either conceiving themselves without the compass of law, or trusting in their friends and numbers; infomuch as Arcadius, Theodosius and Valentinian, in the year 395. were forced to declare, *Hereticorum nomine continentur, & latis adversus eos sanctionibus debent subcumbere, qui vellevi argumento judicio Catholicae religionis & tramite detecti fuerint deviare*: which † St. Augustine explains, *eos utique hereticos appellant, qui non sunt communiois eorum*, as the Councell of Constantinople had before, taking the word in a larger sense then others had done. Upon which the Donatists, that were the most † furious, so as neither the persons nor goods of Catholicks that dwelt amongst them were safe, are more † severely censured in them, then others, whose opinions were certainly more dangerous, yet whom Emperours did think worthy of more favour.

6. But whilst Princes did thus by their lawes onely correct Hereticks, and the temporall Magistrate execute their commands, they did rarely think fit to proceed

\* Hier. in Jerem. 19.

x m's iohis Scot. Bear. Socrates lib. 6. cap. 17. al. 13.

y Cod. Theod. lib. 16. leg. 28. de Heret.

z August. in Psal. 57. 10. 8.

\* Ibid. leg. 38. vide August. epist. 62. & 10. 7. contra lit. Petil. cap. 83.

b Cod. Theod. de Heret. lib. 16. leg. 37, 38, 39, 40, 52, 54, 65.

\* I cannot but  
with the lear-  
ned Wesem-  
bechius (in  
Cod. lib. 1.  
Tit. 5. de He-  
reticis &c.)  
understand  
those words,  
Municibus  
de civitatibus  
pellendis &  
ultimo sup-  
plicio traden-  
dis, not to be  
meant of sta-  
king away  
their lives;  
though I am  
not ignorant  
Celsus the  
lawyer so in-  
terprets ul-  
timum suppli-  
cium ff. de  
pœnis leg.  
21. for to  
what use were  
the banishing  
them the city,  
if they were  
to be instantly  
executed? and

that law being taken out of Cod. Theodof. leg. 65. de Hæret. where those words are altogether omi-  
ted, I conceive Iustinian intended by them no other but those Capitales pœnæ that were morti pro-  
ximæ, as metalli coercitio, in insulam deportatio, &c. ff. de pœnis leg. 28. The like may  
serve for answer to those other Rescripts in Cod. Theodof. de Hæret. leg. 9. 36. It is manifest  
by many places of S. Augustine, as to. 7. contra lit. Petilian, lib. 2. cap. 86. that there was  
no law during his time against the life of an heretick; and Bellarmine himself confesseth as much,  
de laicis cap. 21. § Augustinus. But however the matter is not great, being onely against some  
particular hereticks, whose deportments may be thought to have been seditious as well as their Con-  
science erroneous c De Hæret. leg. 8. Cod. Iustin. d Epist. 127. & Retract. lib. 2. cap.  
4. e Prosper in Chronico An. 392. f To. 4. Anno 386. n. 23. Vide Iohan. Royas singular.  
107. n. 6. Directorium Inquisitor. 2. part. cap. 27. p. 131. col. 1. par. 3. quest. 102. p. 702.  
col. 2. edit. Romæ 1585. vide formulas &c. ad finem praxis judiciariæ Inquisit. p. 524. &  
p. 526. g Direct. part. 3. in quest. 36. Franc. Pegn. comment. 85. p. 608. col. 2. Iohan. a  
Royas singular. 107. n. 2. vide part. 2. n. 450.

\* to blood, unlesse perhaps \* against some seditious  
preacher; and the holy men of those times used earnest  
persuasions to deter any inclined to that severity, as not  
esteeming it to agree with the entire charity of a Christi-  
an. S. Augustine, whose labours no man equalled to pre-  
serve the Church from that contagion, when Donatus  
the Proconsul of Africa went farther then that holy man  
liked in that kind, & professeth he had rather be himself  
slain by them, then by detecting the Donatists be any  
cause they should undergo the punishment of death. S.  
Prosper \* remembers four Bishops to have been excom-  
municated 392. for being accusers of Priscilian (the first  
I have read of had his opinions confuted not by Syllo-  
gisms but steel.) From whence Baronius conceives  
it proceeds, that such as deliver an Heretick to the Secu-  
lar for execution, to this day, effectually intercede he  
may not be punished with death; yet, as it were to mock  
God and delude the world, if the Lay having him in his  
power, shall defer the doing it more then ordinary, & it  
is the constant tenet of the Canonists, relying on a Bull of  
Alexander the 4. 1260. he is to be compell'd unto it by  
spirituall censures, yet may not take any cognizance of  
the cause at all.

7. It being then the course in the primitive times,  
that in the proceeding against Hereticks, the Ecclesia-  
stic

# Chap. VIII. of the Church of England.

141

stick did conclude what \* *Tenets* were Heresy, and the Temporall whether the party accused were guilty of the imputation, and likewise of his punishment ( as is manifest by imperiall constitutions, the writings of the ancient Doctours, the custome of the Catholick Church, that never prayed against Hereticks, but Heresy, ) did so remain at least 800. yeares after *Christ*: but about that time the division of the Empire falling out, and Episcopall Consistories establisht through *Europe*, Bishops did begin to claim as matters ecclesiasticall, and onely proper for their Courts, the acting in those causes; which in some sort might be, so far as the determination what is Heresy did extend. And about the year 1000, the Christian world ( as branches not bearing fruit in *Christ*, and therefore to be cast into the fire, *Iohn* xv. 6. ) began to take that way of punishing *Miscreants*; so in *Italy* and *France*, *jussu Regis & univ[er]sa[rum] plebis consensu*, some were thus destroyed: and in imitation of Emperors, who had by their edicts prohibited all compliance with Heresy\* so far, as to punish any lending for that end places to resort unto, <sup>1</sup> *Alexander* the 3. 1163. in a Councill held at *Tours*, & in another at *Rome* 1179. making very strict canons against Hereticks, declared, *eos & defensores eorū & receptores anathemati ducernimus subiacere, & sub anathemate prohibemus ne quis ipsos in domo vel in terra sua tenere vel fovere, vel negotiationem cum eis exercere presumat*. Of which the later being<sup>m</sup> registred in the Canon law, is the first ecclesiastick constitution in it I have observed to condemn rather *Hereticks* then *Heresy*. Soon after which :: *Publicani comburebantur in pluribus locis per re-*

\* Statute at Leicester 2. M. 5. cap. 7. Here I cannot but observe, Possidonius in the life of St. Augustine cap. 18. noting the manner used then in the Catholick Church in condemnation of Hereticks, conformable to what is here specified, adds, Ethoc tale de illis Ecclesie Dei catholice prolaturum iudicium etiam piissimus Imperator Honorius audiens ac sequens, su eos legibus damnatos, inter hereticos haberi debere constituit. again which some had added in the margin, Caesar pronuntiat hereticos: bus was shewing too apparent,

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the custome of those times might perhaps ( when the place it self was not ) be regarded. The Inquisitors therefore of Spain in their Index at Madrid 1612. p. 37. col. 1. appoint it to be blotted out. But this edict against the Pelagians, of whom this Father speaks, is not now found either in the Codex of Theodosius, or Justinian. But see Baronius tom. 5. anno 4. 9. n. 758. h. Baron. 10. 10. Anno 1000. n. 4. i. Ibid. 20. 11. Anno 1017. n. 4. k. Cod. Theod. de Heret. leg. 2. 21. 34. 36. &c. l. Hoved. fol. 334. v. 42. & apud Neubrigenf. lib. 2. cap. 15. canon. 6. m. De Hereticis cap. 8. n. Re- get Hoveden, Anno 1182. fol. 352. b. 29. in fine anni.

gnum Franciæ, quod Rex Angliæ nullo modo permisit in terra sua, licet ibi essent per plurimi.

a De scriptor.

b Bernard. in

Cant. serm.

62. 30. 1. col.

987. k. edit.

1586.

8. Yet the pious men of those times seem not to approve of this rigour. St. Bernard, one of the most devout persons of that Age (*vir plane Apostolicus* sayes \* *Bellarmino*) following the doctrine of one much more Apostolick, \* explaining *Cantic. ii. 15. Take us the little foxes that spoyl the vines*, writes, *si juxta allegoriam ecclesias vineas, vulpes hareses, vel potius hareticos ipsos intelligamus, simplex est sensus, ut haretici capiantur potius quam effugentur; capientur dico, non armis, sed argumentis, quibus refellantur errores eorum, ipsi vero si fieri potest reconcilientur Catholica, revocentur ad veram fidem — hoc denique velle se perhibet, qui non simpliciter capite vulpes, sed capite nobis, inquit, vulpes parvulas; sibi ergo & sponse sue, id est Catholica, jubet acquiri has vulpes, cum ait capite eas nobis.* and a little after, *Quod si Hareticus reverti noluerit, nec convictus post primam jam & secundam admonitionem — erit devitandus.* Thus the holy men of the Age in which they stopt first mens mouths not with arguments but armes, did judge of it: and indeed we have not many examples of any suffered meerly for conscience till after 1216.

p Paramo de origine Inquisitionis. lib. 2. Tit. 1. cap. 1. n. 7.  
p. 90. Simanca Cathol. Instruct. Tit. 23. n. 4. p. 182.  
Rome 1575.  
q Paramo de origine Inquisitionis.

9. In which year, as some write, *Innocentius 3<sup>us</sup>*. p on the ignorance or remissness of Bishops in prosecution of Hereticks, did give beginning to the creation of a new Court, called since the *Inquisition*: of whose institution and use, because it hath highly served to the raising the Papacy, it will be necessary to say something. He therefore at that time appointing *Dominicus* a Spaniard, founder of the *Dominican* Order, by a Commission delegated from him, his Inquisitor against the *Albigenses* in France, (without abrogating the power of Episcopacy in that kind) gave to him, onely a private Friar, such a power, as caused divers of them to be destroyed by that authority in another Princes Dominions. Though such as

\* I have seen do conclude the auctority he exercised to have been from *Innocentius* 3<sup>us</sup>. yet of the time when it was granted they do somewhat disagree. *Franciscus Pegna*, a *Spanish* Doctor, who publisht his annotations on the *Directorium Inquisitorum* at *Rome* 1585. yet it seems I could not secure himself from them, \* holds it to have been first committed unto him about 1200. on the other side *Paramo* of the same nation, that was himself an Inquisitor in *Sicily*, and expressly writes of that subject, is \* clearly of an opinion it could not be before the conclusion of the Councell of *Lateran*; and for proof gives in my judgement a very probable reason, viz. That no Papall Decretall, or History preceding, did ever name any such Inquisitor, that very \* Councell when it treats of Heresy speaks of no other Judge then the Bishop: now it ending about *Easter* 1216. (as I shall shew hereafter) if granted by *Innocentius*, it must be at some time between *March* and the 16. *July* 1216. when that Pope dyed. Yet I cannot omit that \* *Camillus Campegius*, in his additions to *Zanchinus*, speaks as if after that Councell Friar *Dominick* had not his auctority from the Papacy immediately, but from one *Bertram* or *Bertrand* a Cardinall Priest: but who that *Bertram* was, I confess I have not been able to satisfie my self. <sup>b</sup> *Ciaconius* remembers one of the name employed against the *Albigenses*, promoted to that honour by *Innocentius* 3<sup>us</sup>. 1212. but he styles him onely a Cardinall Deacon; as he hath another so called that was a Priest, but he was no Cardinall, till *Honorius* 3<sup>us</sup> in *December* 1216 prefer'd him to the honour, so was not capable of serving Pope *Innocent* in that degree.

10. But whosoever first began it, *Frederick* the 2d. certainly much augmented their power, \* publishing the

\* *Franciscus Pegna*, *Ludovicus à Paramo*, *Famianus Strada de bello Belgico lib. 2. p. 41. in fol. Rome 1640. J Ollat. Epist. 59. Rome 5. Jun. 1596. t In Director. pari. 3. comment. 32. p. 495. col. 1. b. u De origine Inquisit. lib. 2. Tit. 1. cap. 1 n. 13. cap. 2. n. 3. p. 96. col. 2. x Cap. 6, 7, 8. y Cap. 8. n. 35. z Urspergen. lib. 3. p. 321. o. biit apud Perusium 1216. 16. Calend. August. a Edit. Rome 1579. p. 149. concilio absoluto Bernardus presbyter cardinal. ips'um legationis officium obtinuit, qui praedecessorum exemplo B. Dominicum Inquisitorem similiter instituit. b Alphonsus Ciaconius de Cardinalibus, Roma 1630. p. 650. col. 1. c pag. 663.*

ol. 1. c Vide Bull. Innocent. 4. dat. 11. Calend. Junii Pontific. anno 11. 1254. in bullario à Francisco Pegna edit. ad calcem Directorii, p. 16. & Alexandri 4. ibid. p. 34. & Clementis 4ti. ibid. p. 57. &c.

the 22. of February 1224. three lawes at Padua, by which he did constitute the *Dominicans* Inquisitors through the Empire, yet taking all others under his protection; and appointing such as should be convict of Heresy, *ut vivi in conspectu hominum comburantur, flammaram commissi judicio, &c.* That these edicts were publisht at the onely instance of *Honorius 3<sup>us</sup>*. is very probable, in that they are not any way <sup>d</sup> recorded but in papall bulls *quoad verba*, (∴ as I shall shew hereafter.) After which, severall persons in divers parts proceeded against them by commission from Rome: so as the Bishop, who was the ordinary detector of Heresy, had little to do, and became daily to have lesse and lesse; that although his power be not in those cases absolutely taken off, yet it is so impaired, as it gives place to the Inquisitor; insomuch as if one suspected of Heresy be cited by him and the Bishop <sup>e</sup> at the same time, his appearance must first be in the Inquisition: and the reason given is, because they have a power by a delegated commission from the Pope, *f* whereas to the other *jure divino hæc cura incumbit in hæreticos inquirere*; and *g* *Simanca* yet more plain, *Cum Episcopi non habeant secretum carcerem, nec ministros idoneos ad procedendum adversus hæreticos, non possunt servare ordinem illum qui præfinitus est Inquisitoribus: quam ob rem usque eotantum procedere debent, ut in hæreticos vel suspectos inquireant, & summariam probationem Inquisitoribus secreto mittere debent.* So that what power the Bishop hath in this kind from *Christ*, he is now become little other then agent or substitute to the Inquisitor in point of Heresy.

11. But these Commissioners exercising their authority with Fire, Tortures, and the like, in short time found themselves infinitely mistaken, in expecting by such violence to render that peace in the Church, and obedience in the world, the primitive Fathers by the truth of their Dictats, evidence of reason, and piety of their lives,  
drew

*d* In sexto  
de hæreticis  
cap. 18. Glossa  
ad leges  
quædam.  
∴ n. 18.

*e* Paramo de  
potestate dele-  
gata lib. 3.  
Quest. 2. n.  
109. p. 536.  
col. 1.  
*f* Ibid. lib. 2.  
cap. 2. n. 11. p.  
133. col. 1.  
*g* Instit. Ca-  
thol. Tit. 25.  
n. 5.



drew men unto: for in some places they were <sup>b</sup> expelled by the peoples fury, hardly any where continued but by strong hand; their carriage being so full of Scandall, as *Clement* the 5. in the Councell of *Vienna* could not but acknowledge they had so exceeded the power committed to them by the Apostolick See, <sup>i</sup> *ut quod in augmentum fidei per circumspectam ejusdem sedis vigilantiam salubriter est provisum, (dum sub pietatis specie gravantur innoxii) cedat in fideliū detrimentum.* For these men took upon them under the Pope, not onely to construe what was heresy, or complying with it, but on those imputations to imprison, fine, confiscate mens goods, to the destruction of honest people, and families; which forced some States <sup>k</sup> to limit their proceedings, barre them of prisons proper to themselves, and the wise *Venetian* appoint three Senators to supervise their actions: insomuch as this delegated power did so decline, as notwithstanding the many constitutions of *Innocentius* 4<sup>th</sup>, *Alexander* the fourth, and severall other popes yet extant for regulating of it, out of *Italy* it was little taken notice of; <sup>l</sup> in *Spain* it remained *obscurum debilitatumque*, till *Ferdinand* and *Isabella* 1479. by agreement with *Xistus* 4. or, as <sup>m</sup> others, 1484. with *Innocentius* 8, did so renew it, as <sup>n</sup> *Simanca* doubts not to write, they did introduce it into that Kingdome: which I conceive to be in respect of the alterations in the proceedings now used to those were formerly; for that tribunall, in preceding times committed from the Papacy to Friars regulars (who most depended on *Rome*,) and therefore said to be the Popes Court, is since by this concord become in effect no other then the Kings, being recommended to the care of Clerks secular and Lawyers, the *Dominicans* who formerly governed it altogether excluded, unlesse where the Inquisitors require their counsell.

12. The style or manner there used being, that his

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<sup>h</sup> Vide additiones ad Lanbertum : chafaaburgensem anno 1332. T. item. Cronic. Hirsaug. anno 1214. p. 223. C. anno 1233. p. 235. Mar. Paris Anno 1236. p. 429. anno 1238. p. 482. Munsteri Cosmograph. p. 477. <sup>i</sup> In Clement. de Hæreticis, cap. 1. <sup>k</sup> Vide Giovanni Villani lib. 12. cap. 57.

<sup>l</sup> Paramo de origine Inquisitionis. lib. 2. Tit. 2. cap. 2. n. 13. p. 143. C. cap. 3. n. 5. p. 135. <sup>m</sup> Francisc. Pegna in Directori part. 3. com. 32. p. 49. col. 1. n. Cathol. Institut. Tit. 3. n. 5. See Pegna ubi supra.

• Vide Paramo de origine Inquisiti. lib. 2. Tit. 2. cap. 4. per totum : & Simanca ubi supra, Tit. 34. n. 6, 7.

Maty • names an Inquisitor generall, whom the Pope approves, and after is not at all admitted to interpose ; for that Inquisitor nominates a Councell, of which himself is President, for number and persons as the King likes (as sometimes five, to which *Philip* the 2. added two more,) and these be of the gravest divines of *Spain*, ever residing at or near the Court, who compose all differences arising in particular Courts, receive all appeals, punish the defect of agents, and relates to none but the King. Of this Councell, as I said, the Inquisitor generall is President, whose auctority is very ample; for he nominates all provincially Inquisitors and their Officers, (who yet enter not on their charges but by the Kings allowance) whom on occasion he removes and punishes, releases all penances, appoints visitors over particular Courts, and though he be directed by the rule of the Canon Law and papall bulls, yet on occasion varies from them, as is manifest by *p* these Instructions, *Relinquendum est arbitrio & prudentia Inquisitorum, ut procedant juxta juris dispositionem in his qua hic non expresse declarantur*, is answerable to none but the King, admitting the Pope either very little or not at all: inso-much as *q* *Pius* 4<sup>th</sup>. 1565. sending the Cardinall *Buon compagno* into *Spain*, upon the cause of the Archbishop of *Toledo*, committed by the Inquisition there six yeares before on an imputation of heresy, the Kings counsell liked not he should alone examine that Prelate, without joyning two *Spaniards* both in the processe and sentence. Neither did that State receive the Councell of *Trent* 1564. by other auctority then the Kings onely, who by his edict of the 12. of *July* commanded the Cardinalls and others of his Clergy to observe it, without making any mention of the Pope. So that in that Kingdom this Catholick Prince doth not take on him much less over Ecclesiastick Courts and causes then the King of *England*, however he do not style himself Head of

*p* Instru<sup>t</sup>. Hispal. cap. 28. ut citatur a Paramo p. 146. col. 2. n. 4.

*q* Adriani Hist. lib. 19. p. 1341. & ibid. lib. 18. p. 1273. Hefcas Hist. Pont. Madriti 1606. lib. 6. in Pio 4. fol. 342. a. col. 2.

# Chap. VIII. of the Church of England. 147

of the Church. And therefore <sup>r</sup> *Simanca* speaking of this Inquisition, plainly sayes, *Ferdinand* and *Isabella* *iudicii ordinem quo etiam hodie utimur magna ex parte instituerunt.* Inſomuch as if we meet it at any time termed the *Popes Court* there, it is, no question, but a nominall appellation, of that is neither ſubject to his rules, nor to follow his commands, but as another will.

13. But this Court in *Spain*, and other places conforming themselves much to the papall interest, is become very infamous, things being carried in it, as we read in *ſ Monſ de Thous* excellent history, *præpoſtera iudiciorum forma, contra naturalem aequitatem, & omnem legitimum ordinem, — tum etiam immanissas tormentorum, quibus plerumque contra veritatem, quicquid delegatis iudicibus libebat, a miseris & innocentibus reis, ut se cruciatibus eximerent, torquebatur.* And indeed the directions *Popes* have set them, do not agree I think with the practise of any standing Court of Justice the world ever saw: as that of <sup>r</sup> *Innocentius* 4<sup>th</sup> and <sup>u</sup> *Pius* 4<sup>th</sup>, that no man shall know the names either of his accuser or that testifies against him, which <sup>x</sup> *Camillus Campegius* will not have communicated to those learned men th' Inquisitors shall call to their assistance in judgement. Another <sup>y</sup> of *Pius* 5<sup>th</sup>, that no declaratory or definitive sentence in favour of the accused, though after a canonick purgation, *posse facere transitum in rem iudicatam*, but that they may again proceed *tum de antiquis quam noviter super eisdem articulis*: which in effect is no other, but that a man once accused before them can never be freed. Of a third of the <sup>z</sup> same Pope, that whosoever should strike or terrify any belonging to the said Office, (even a Notary or servant) should assist any to escape, imbezzle

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publicandus est, &c. *Additiones ad cap. 14. Zanchini p. 104. Rome 1579. edit.* y *Bulla Pii 5<sup>ti</sup>, cui initium Inter multiplices curas. dat. Rome 21. Decembr. 1566. ubi supra, p. 169.* z *Bulla Pii 5<sup>ti</sup>, cui initium Si de protegendis, dat. Rome 1. April. 1569. ibid. p. 174.*

<sup>r</sup> *Cathol. Institut. Tit. 34. n. 5.*

<sup>r</sup> *Hist. lib. 3. p. 81. Anno 1547.*

<sup>t</sup> *Apud Emericum Director. Inquis. par. 2. p. 145.*  
<sup>u</sup> *Bulla Pii 4<sup>ti</sup>, cui initium cum sicut. à Francisco Pegna post Directorium edita p. 162.*  
<sup>x</sup> *Constantinæ asserere audeo, quod nec ipsis peritis totis processibus integraliter cum nominibus & circumstantiis*

any writings of that Court, besides the being by that Bull declared *Anathema*, should be guilty of treason, and suffer according as men found culpable *in primo capite diffalegis*, their children subject to the paternall infamy, to be not onely incapable of succeeding in the fathers inheritance, but of receiving any legacy from friend or stranger, or attaining any place of dignity whatsoever; and others of the like nature, too long to be insisted on.

14. Certain it will not be easy (at least to my understanding) to prove these proceedings of a Court Christian to agree with those rules and examples Christ himself hath left us in holy Scripture: but the pursuing these Maximes, and the like, hath brought a great obloquy upon this Court, so as it is held an undoubted truth, the Inquisition under the *Spaniard* hath an eye rather to empty the purse, and is upholden more for temporall ends, then to cure the conscience. And to this purpose it may not be here unfitly remembred, that a *Spanish* Inquisitor, employed by *Philip* the 2. into *Sicily*, writes, it is found amongst the records of that Kingdome, :: *quod quando in anno 1535. fuit limitata seu suspensa jurisdictio temporalis hujus sancti officii in aliquibus casibus per invictissimum Carolum 5<sup>um</sup> felicitis memoria, jurisdictio spiritalis causarum fidei fuit in suspensio, & quasi mortua*: which I take no other then a confession, the Church, which it maintains, without the temporall power would fail and come to nought; as indeed <sup>b</sup> *Cardinall Bellarmine* somewhere in effect confesseth, that to restrain ecclesiastick jurisdiction to spiritualls, that pertain to the soul, is to reduce it to nothing.

15. But because I am here entred upon this fining or confiscation of the goods of a Lay person by a spirituall judge, on the conviction (or rather imputation) of Heresy, it will not be amiss to see how the Ecclesiasticks have gained that addition to the power left them by *Christ*; which is so necessary, as without it, that onely

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<sup>a</sup> *Adriani lib.*  
17. p. 12; 8. c.  
*Hist. Concil.*  
*di Tr m. lib.*  
8. p. 77.

:: *Paramo*  
*de origine In-*  
*quisit. lib. 2.*  
*cap. 11. n. 17.*  
p. 203.

<sup>b</sup> *Risposta ad*  
*fol. 22. A-*  
*poloz. del Pa-*  
*dre Paolo p.*  
35.

# Chap. VIII. of the Church of England. 149

was committed to them from him, which the ancient Fathers practis't, would be as it were dead. It cannot be denied, Princes did in former times by their edicts impose pecuniary penalties on some actions concerned religion; so did <sup>c</sup> *Theodosius* 392. on such as did ordain or were ordained *in Hereticis erroribus*; which law a <sup>d</sup> Councell held in *Africa* about 404. (provoked by the inhumanity of the *Donatists*) did petition th' Emperour *Honorius* might be of force against them: but never any holy Bishop of those times took upon him to confiscate any mans estate for his opinions, much lesse to damnify the son for the fathers *tenets*; and the lawyers do expressly resolve, <sup>e</sup> *si pœna alicui irrogatur — ne ad heredes transeat*, and give this reason, <sup>f</sup> *pœna constituitur in emendationem hominum, quæ, mortuo eo in quem constitui videtur, desinit*; again, no man is *alieni criminis successor*: and accordingly, many imperiall constitutions do expressly provide, the Catholick children of hereticall parents (though the father were deprived of them) should succeed in their paternall goods; and thus it stood for ought I know for above a 1000 yeares, the Christian world thinking it hard the son should suffer for an erroneous perswasion of the father, neither did ever any holy Bishop for that space (unlesse as Deputy to some Prince) take upon him that way of punishing, and if any did, it was not approved in him.

16. In the year 1148. <sup>b</sup> th' Archbishop of *Canterbury* called by *Eugenius* 3<sup>rd</sup> to a Councell at *Reims*, the King denied him passage; yet he stole thither; for which on his return he was expell'd *England*: into which notwithstanding he got, shrouding himself, as it seems, in those tempestuous times, and to make himself the more formidable, interdicted divine service through the Kingdom (which is the first experience the nation ever had of that censure.) To this the Prior of *S. Augustines* refused to yield obedience: and th' Archbishop having

<sup>c</sup> Cod. Theod. de Heret. leg. 21.  
<sup>d</sup> Concil. Afric. cap. 60. & Baron. 10. 5. Anno 404. n. 123.

<sup>e</sup> ff de pœnis leg. 20.  
<sup>f</sup> Ibid. & leg. 26.

<sup>g</sup> Cod. Theod. de Hereticis leg. 40. lata Anno 407. in Cod. Just. tit. eodem leg. 4. 19. lata Anno 530. & in Authenticis Novel. 31. 5. cap. 3. §. 14. lata Anno 541. &c.

<sup>h</sup> Vide Ger-vas. Doro-bern. col. 1363. 1364. 1366. 1. 1656. 20. Willielmus Thorn col. 1307. 52. &c

i Thorn, col.  
1803, 63.

k Thorn,  
1809, 55.

l Depauis, cap.  
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m Apud Ro-  
gerum Hove-  
den fol. 354  
B. 3. & cou-  
cil. general.  
Rome cap. 3.  
p. 23. col. 2.  
n De Hereticis  
cap. 8.  
o Hist. minor.  
Anno 1217.  
p De Heret.  
cap. 10 &  
Registr. Inno-  
cent. 3. lib. 3.  
epist. 1.  
q Cod. The-  
od. de sicariis  
leg. 1. & Cod.  
Just. ad le-  
gem Juliam  
Majestatis  
leg. 5. §.  
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now made his peace with Stephen, got the sentence confirmed from Rome; upon which <sup>i</sup> omnes seculares in hoc monasterio servientes, prater censuram ecclesiasticam, ad gravem pecunia red. mptionem, contra juris aequitatem & sanctorum patrum decreta, cogit. On this complaint being made to the Pope, he writ unto him, <sup>k</sup> Sicut nobis significatum est, homines ejusdem monasterii, pro participatione excommunicatorum, prater ecclesiasticam pœnam fuerunt ad redemptionem coacti; and thereupon commands him, quatenus omnia quæ hac occasione sunt eis ablata sine vexatione restitui facias, nolumus enim ut nova in vestra ecclesia inducantur &c. so that certainly it did but then begin to bud. & after 1160, Alexander the 3.<sup>l</sup> condemns the use of the Archdeacons of Coventry, who pro corrigendis excessibus & criminibus puniendis, à clericis & laicis pœnam pecuniariam exigunt, affirming it seemed to proceed de radice cupiditatis & avaritiæ: yet the same Pope in a <sup>m</sup> Councell at Rome 1179. appoints the goods of hereticks to be confiscated, but gives not at all any auctoriry to the spirituall judge in the execution of it; and at the compiling of the Decretalls by Gregory the 9.<sup>n</sup> that particular is omitted.

17. But not long after Innocentius 3, that *verestupor mundi* and *immutator seculi*, as <sup>o</sup> Matthew Paris styles him, about the year 1200 <sup>p</sup> appointed the goods of Hereticks under his jurisdiction should be confiscated, and out of it the like to be done by the secular magistrate, upon pain of Ecclesiastick censures; adding from certain <sup>q</sup> imperiall constitutions, that it being onely an act of mercy, that the children of such as commit trea on have their lives spared, when they loose their goods, and the crime far greater to offend God then man, that the severity should not give scandall to the faithfull, in seeing children exposed to misery for the parents offence, there being many cases wherein according to the divine justice sons may be punished for the fathers fault, which he leaves



leaves the Canonists to justify by th' examples of *Chanaan*, the children in *Sodom*, of *Achan* &c. as I do the reader to seek in them. But it seems to me an hard glass, from prophetick speeches of the primitive times, or extraordinary examples, when God himself directed what he would have done, for us now to conclude a practise lawfull contrary to expresse precept, *Deut. xxiv. 20. Ier. xxxi. 30. Ezech. xviii. 20.* made good likewise by the ordinary use of those times. Besides, I am not satisfied with the reason, that temporall Lords punishing treason with the heirs losse of Estate, Heresy being an offence of the same or a worse nature against the Divine Majesty, children ought so to suffer: For doubtlesse all treason against a Prince presupposeth malice to his person or government, (and therefore we do not read that for meerly casuall misfortunes, such as *Tirrells* in *England*, or *Mongomeries* in *France*, men have been so punisht) and for that they take away the offenders life upon the first fact, which th' Ecclesiastick pardons: now questionlesse Heresy is out of an erroneous opinion the holder hath of pleasing God.

18. This of *Innocentius 3<sup>us</sup>* I take to be the first pall constitution in the kind; yet some 16. yeares before it, divers of severall qualities being discovered in that part of the *Netherlands* was then within the province of *Reims*, the Archbishop and Earl of *Flanders* joyned in an edict, *ut deprehensi incendio traderentur, substantia vero eorum sacerdoti & principi resignarentur.* After this in the Councell of *Lateran* 1215. under the same Pope it was again establisht, *bona damnatorum [de heresi] si laici fuerint, confiscentur; si vero Clerici, applicentur ecclesiis à quibus stipendia perceperunt &c.*

Nine yeares after which *Fredericus 2<sup>us</sup>* publisht those lawes at *Padova*, of which before, in which he did especially establisht the confiscation of their goods, and is the first imperiall constitution of that kind; which remain

r *Alphonfus à Castio de justis hereticorum punitione, lib. 2. cap. 11. Simancas Instit. Cabol. Tit. 9. n. c. 6. Ioan. Royas signat. ar. 66. n. 3, 6. Vide St. August. lib. 6. Question. 3. super Ios. 10. 4. 12 Kings xiv. 6. 2 Chron. xxv. 6.*

t *De Hæres. cap. 9.*

u *Chronicon Aquicinctin à Miræo 1608. editum ad calcem Singeberti Gemblacensis & aliorum, p. 236. anno 1183. x Concil. Lat. cap. 3. & de Hæresic. cap. 13.*

y Eduntur à  
Francisco  
Pegna, ad fi-  
nem Directorii.

z De Episco-  
pali audien-  
tia, cap. Sta-  
tuimus, & de  
Hæret. Mani-  
chæis, cap.  
Gazaros &c.  
a Apud Para-  
mum de origi-  
ne Inquisi-  
lib. 2. tit. 2.

cap. 11. n. 8.  
p. 198.

b Bul. Innoc.  
4. dat. idibus  
Maii 9. Pon-  
tis. cui initium  
Ad extirpan-  
da &c. in  
bullario. et à  
Francisco  
Pegna ad fi-  
nem Directorii,  
p. 11. §. Tene-  
antur.

c Ibid. p. 37.  
§. Teneatur.  
dat. Anagnie  
2. Kalend.

Decem. 1259.  
d Ibid. p. 65.

§. Teneatur.  
bulla Clem. 4.  
dat. Perusii 3.  
Non. Novemb.

1. Pontificat.  
e Anal. eccle-  
siast. Renaldi  
10. 14. Anno

1297. n. 41.  
f De hæreticis  
in sexto cap.  
19. vide cap.

17, 18.

g Extr. av. com-  
mun. cap. 1.

no where now entire save in some 3 papall bulls, as of  
*Innocentius 4. Alexander the 4. and Clement the 4.* as is  
noted in *Gloss. de Hæret. cap. 18. in sexto ad verb. leges*  
*quasdam*: yet some part of them are now inserted into  
3 the Codex of *Justinian*, under the titles of *Authentica*  
or *nova constitutio Frederici 2. de statu & consuetud. &c.*  
as I have touched before.

19. But these lawes, though they confiscated the  
goods of Hereticks, did not appoint how they should  
be employed; insomuch as the same Emperour, being  
that very year 1224. at *Palermo in Sicily*, a expressed his in-  
tent to all his Officers through the Empire, but more espe-  
cially in that Kingdome, that whereas formerly his Exche-  
quer did receive the benefit of those confiscations, they  
should be divided into three parts, viz. one third *Fisco*, a-  
nother *Apostolica sedi*, & the other third *eisdem Inquisitori-*  
*bus*. After which b *Innocentius 4<sup>m</sup>* 1252. did appoint a dis-  
tribution in some sort imitating him, as did likewise c *A-*  
*lexander the 4<sup>th</sup>*, including as liable to the same punish-  
ment such as were receivers of Hereticks: to d which  
*Clement the 4.* 1265. added, that the houses in which  
Hereticks were found, to be destroyed without hope of  
reedifying, the materialls sold, and a threefold division  
made, &c. These deprivations confined hitherto to *Ita-*  
*ly* onely, *Boniface the 8.* 1295. or rather e 1297, publi-  
shing the sixth book of the Decretalls, made generall, de-  
creeing, *bona Hæreticorum ipso jure decernimus confiscata*:  
whereupon, and some other by him then inserted into  
the Canon law, Bishops laboured to draw from th' Inqui-  
sitors part of the profits thus distributed; but f *Benedict*  
the 11. 1303. did absolutely prohibit that, *tantum juri*  
*absonum*. After which, because (as it seems) the Clergy  
were not free from prosecuting men onely for their e-  
states, *Clement the 5<sup>th</sup>* in the Councell of *Vienna* 1311.  
strictly b injoynd, *ne prætenu officii Inquisitionis, qui-*  
*busvis*

h In Clem. de Hæreticis cap. 2.

## Chap. VIII. of the Church of England. 133

*busvis modis illicitis ab aliquibus pecuniam extorqueant;* and likewise, *ne scienter attentent ecclesiarum bona, ob clericorum delictum, predicti occasione officii fisco etiam ecclesie applicare;* changing what the Councell of Lateran had before establisht.

20. Yet notwithstanding this grave admonition of the Pope, their Agents did not carry themselves without scandall in this kind, by reason of an <sup>i</sup> outrage arising from a *Franciscan* Inquisitor 1346. in *Florence*; a Scrutiny was had of his actions, and found he had raised from the Citizens 7000 florens of gold in two yeares, as compositions, or fines, upon the imputation of Heresy, yet never lesse in the town; but any erroneous or lesse cautelous word was censured as criminall. This drew the *Florentine* to conform themselves to the usages of *Perugia*, *Spain*, and other parts, in making a law, no Inquisitor should condemn any Citizen or borderer pecuniarily, but if an heretick, send him to the fire. By which we may gather, these bulls were not generally received in the world; for then in *Spain* th' Ecclesiastick did not fine men, and now the King there hath the benefit of those confiscations. In <sup>k</sup> *France* they do not to this day impose on the Laicks *amendes pecuniaries*, but onely on the Clergy, which must be expended *en aumosnes* and *ouures pitoiables*, not to the enriching themselves, &c. Neither doth the wise *Venetian* permit confiscating of estates to arise from any sentence of theirs, but that is to devolve to the next heir. I do not here mention the constitutions of *Boniface* Archbish. of *Cant.* 1260. nor of *Stratford* 1343. in this kind; because of the first little reckoning was made, and the second did onely refer to commutation of penance, which the law allowes: he that would may find them in *Lyndwood* lib. 3. *de immunitate ecclesie* cap. *Accidit*, and lib. 5. *de pœnis* cap. *Evenit*.

21. If any ask a cause, why the ancient Fathers did proceed with so great lenity against blasphemous here-

i Giovanni  
Villani lib.  
12. cap. 57.

k Arrest de la  
court de Par-  
liament a Pa-  
ris 27. Jun.  
1542. habetur  
in libro des  
preuves des  
libertes del' es-  
glise Gallicane  
cap. 38. n. 9.  
p. 1082.

1 August. E-  
pist. 68.

m August.  
contra literas  
Petiliani Do-  
nat. lib. 2. cap.  
3j.

n ΧΑΙΡΕΤΕΣ ΕΠΙΣΤΟΛΑΙ  
Dr. Socrates de  
Chrysostomo  
lib. 6. cap. 22.  
lat. 19.  
o De Hereticis  
cap. 9. & tit.  
eodem cap. 4.  
in Sexto. Si-  
manca Instit.  
Cathol. Tit. 57.  
n. 10.

p Mat. xviii,  
22.  
q Aeneas Syl-  
vius histor.  
Bohemica cap.  
35.  
r Cognitio  
haereticis &  
ipsius puni-  
tio pertinet  
ad episcopos.  
Lyndwood  
de H. relictis  
cap. Item  
quia, verbo  
Ordinarii.

ticks, as the *Arrians*, *Nestorians*, &c. why, when the<sup>1</sup> Em-  
perour would have punished the furious *Donatists* with a  
pecuniary mulct, the holy men of those times so earnest-  
ly interceded as to procure the remission, and did require  
their fury with such love & meeknesse, as to be able to  
say, no one of them had payed what th' imperiall edicts  
might challenge; when of late yeares men have been  
brought to the fire, children exposed to misery by the  
loss of their parents estates, even by Bishops and other  
of the Clergy, whose opinions were neither so blasphem-  
ous as the *Arrians*, nor their comportments so inhu-  
mane as the *Donatists*: why they preached, men relap-  
sed, even to a thousand times, might yet live reconciled  
to the Church; when as now such as have renounced an  
opinion *Rome* calls heresy, being after found to hold it,  
is *o seculari judicio sine ulla penitus audientia relinquendus*;  
which yet is not observed if he be a Prince, as was *Henry*  
the 4. or perhaps a private man out of their power:

22. To these demands I can give no other answer,  
but that their offences being against the holy Trinity, the  
pious Bishops of those times, as men who watched for  
soules, did content themselves to denounce what was  
heresy, but having done that, finding it not received, to  
leave the punishment to him who assures it shall go  
worse with *Sodom* and *Gomorrhah* then those refused their  
instructions, and under him to the Secular magistrate; did  
likewise follow his precept, in forgiving even to *7* seven-  
ty times seven times: when on the other side, the opini-  
ons of these later hereticks (as they call them) be rather  
against men and their Institutes, then God, as that *1 Ro-*  
*manum praesulem reliquis episcopis parem esse, Purgatorium*  
*ignem non inveniri, Celebritates sanctorum rejiciendas, Je-*  
*junii ab ecclesia instituti nihil inesse meriti* &c. and a per-  
swasion gained, none but the Ecclesiastick can *r* punish  
Heresy, who judge the opposer by the law of man, how-  
beit they style it Christian, yet how it agrees with divi-  
nity

nity I remitto the Canonists decision. In the mean time I cannot but observe, <sup>f</sup> *Simanca* finds nothing out of holy writ, but onely in divine *Plato* lib. 10. *de legibus*, to maintain the position that *semel tantum hæreticis pœnitentibus parçitur* &c.

*f* *Cathol. Instit.*  
*Tit. 57.*

23. This being then the proceeding against Hereticks in generall, it will be necessary to see how it was formerly in *England*, and how the Queen found it. First, it will not be unfit to premise, <sup>t</sup> that from the Conversion of the *Saxons* to the year 1166. no heresy was ever known to have been in *England*; infomuch as we may safely conclude, whatever doctrine we meet with in the publick homilies of the Church, or other writers of elder times, must be esteemed catholick, however it now stand censured: but in that year about xxx *Dutch* came hither, that detested baptisme, the Eucharist &c. who being convict by Scripture in an episcopall councill called by the King at *Oxford*, were remitted to his disposition, that caused them to be whipt, and burnt in the face, and a command given none should either receive or relieve them, so that they miserably perisht: which severity his Ma<sup>ty</sup> did not think fit afterward to extend to those were then called *Publicani*, as I have before <sup>u</sup> shew'd, though there were many in his dominions.

<sup>t</sup> *Neubrigensis lib. 2. cap. 13.*

<sup>u</sup> *u. 7.*

24. For the punishment of Hereticks, it cannot be doubted by the common Law (that is the custome of the Realm) of *England* to have been here, as in other parts of the world, by consuming them by fire. <sup>x</sup> *Balaus*, from the testimony of a chronicle of *London*, reports one of the *Albigenses* to have been so made away there 1210. to which the :: learned *Camden* seems to allude, when he sayes more dyed in Queen *Maries* time, then this nation had seen *ex quo regnante Iohanne Christiani in Christianos apud nos flammis scivire cæperunt*. The same *Paramo* saith is made good by an epistle of *Tho. Waldensis* to *Martin* the 5, but I have not seen it; I am sure in

<sup>x</sup> *De script. Brit. Cent. 3. cap. 65. in Appendice. :: Apparatus Elizabeth.*

y Lib. 3. de  
corona cap. 9.  
n. 2. fol. 124.  
a. Britton cap.  
9.

z Lib. 1. cap.  
29. in fine,  
p. 46.

that *Waldensis* I use it is not found. But of the truth of the thing there is no question; for *Bracton* writes of an Apostate Deacon, that in a Councell held at *Oxford* 1222. by *Stephen Langton* was first degraded, and then by the Lay committed to the fire: with whom for the thing agrees *z Fleta*; yet, by the way, where you read in him *per manum comburentur clericalem*, it is to be *Laicalem*, for so is *Bracton*. out of whom he transcribed it, agreeing with the continuall practise both of this and other nations; for the Clergy meddles not with execution.

a Hist. Angl.  
lib. 19. p. 382,  
39.

b Rot. Parl.  
2. Hen. 4. n.  
29.

c *Ypodigma*  
*Neustrie* an-  
no 1401. p.  
158. 9  
d 2. Hen. 4.  
cap. 15.

e Rot. Parl.  
1. Hen. 4. n.  
116.

25. In *Edward* the 3<sup>d</sup>s dayes, about the year 1347. *a Polydore Virgil* testifies two *Franciscans* to have been burnt, *quod de religione male sentirent*. Neither did *WVilliam Sautry*, a relapsed priest, dye by any statute-law 2. *H. 4.* but convicted in a provinciall councell of th' Archbishop of *Cant.* the writ *de heretico comburendo*, bearing date the 26. *February*, was by th' advice of the Lords Temporall sent to the *Major* of *London* to cause him be executed, *b attendentes*, sayes it, *hujusmodi hereticos, sic convictos & damnatos, juxta legem divinam, humanam, canonicam instituta, & in hac parte consuetudinaria, ignis incendio comburi debere &c.* But where *c WValsingham* speaks as if he dyed during the sitting of the Parliament, by vertue of *d* the law then made against hereticks, the historian is without peradventure mistaken; for that Parliament, begun about the 20. *January*, ended the 10. *March* following, did expressly provide, on the petition of the Commons, *e qe touz les estatutz & ordenances faitz ou affaire en cest Parliament qe sont penalz, ne tiegent lieu ne force devant le feste de Pentecoste prochain venant, les queles en le mesme temps püssint estre proclamez:* to which the answer is, *le Royle voet*. So that certainly he could not dye by that law, which was not to take effect till so long after.

26. But I confesse I did a little doubt of two particulars:



lars: The one, whether by the common Law a Lay man could be sent to the fire for any conviction by the Ecclesiastick; for all the undoubted precedents I have met with (unlesse that of the *Albigenses* were otherwise) were of some Clerks, within the pale of the Church, that were so punished; and *Bracton* and *Fleta* both agree, *Clerici Apostata comburantur*; whose words being penall, I conceived *stricti juris* not to be construed by equity. But indeed *Fleta* elsewhere speaks more generally, *Christiani Apostata \* detrectari debent & comburi*; and <sup>†</sup> *Briston* of *Miscreants* so to be served, without distinction of the quality; with whom *S<sup>r</sup> Edward Cook* concurs. Another thing I questioned, whether any Bishop within his Diocese alone could convict one of heresy before 2. *Hen. 4.* cap. 15. (of which hereafter:) for whatever the power of the Ordinary was, there is very little example of his putting it in exercise before the times of *Vvickliff*.

27. Who began to be taken notice of about the end of *Edward* the 3. or rather the beginning of *Rich.* the 2. in whose doctrine, at least that they fathered on him, though there were good Corn, yet was it not without Tares. But when it grew common, and to be hearkned unto, the Prelats laboured to procure a law, his Maties Commissions should be directed to the Sheriffs and other his Ministers, to arrest all preachers, their fautors &c. to hold them in prison, till they will justify themselves according to reason, and the lawes of the holy Church. How this past I should be glad to learn; for not onely <sup>b</sup> the printed statutes, but <sup>i</sup> the Roll of *Parl<sup>mt</sup>* expressly mentions the Commons agreeing to those Acts, yet the next meeting they do disclaim to have given any assent unto it, *quel ne fust unques assentu ne grante par les coës, mes ce qe fust parle de ce fust sanz assent, de lour qe celuy estatut soit annulenti*: to which the Kings answer is, *y plest au Roy*. How it fell out this latter was not counted an Act, & *S<sup>r</sup> Edward*

\* I read in detrectari, not as the print, detraçari. f Cap. 9. fol. 16. b.

g 5. Ric. 2. cap. 5. stat. 2.

h 5. Ric. 2. cap. 1. i Rot. Parl. lendemain le han port Latin. 5. Ric. 2. n. 13. Rot. Parl. Othaves St. Michel. 6. Ric. 2. n. 52. k Cook Inst.

1<sup>o</sup> 2. P.  
M. cap. 6.

Cook hath shew'd, which tells us why it past again without opposition in <sup>1</sup> Queen *Maries* dayes. I wish that learned Gentleman had given his opinion how the record came to be so faulty, as to affirme a concurrence of the lower House to that they never assented.

12 Hen. 4.  
p. 15.

28. In King *Hen.* the 4<sup>th</sup> time his successeur, that law past, which greatly increased the power of the Ordinary, allowing him to imprison, fine, determine all causes of heresy, according to the Canonickall Decrees, within three moneths: on which words Canonickall Sanctions the Bishops so behaved themselves, <sup>n</sup> That the most learned man of the realm, diligently lying in wait upon himself, could not eschue and avoid the same act and Canonickall Sanctions, if he should be examined upon such captious interrogatories as is and hath been accustomed to be ministred by the Ordinaries of this realm, in cases where they will suspect of heresy &c. Upon which, if any did refuse obedience to his Diocesan in ought, <sup>o</sup> as paying a legacy &c. there would be means found to bring him within the suspicion of heresy. And certainly the proceeding of some Diocesans upon this statute gave quickly scandall: for onely nine yeares after, we find the Commons petition,

Cook Instit.  
cap. 5. p. 42.

Rot. Parl.  
1. Hen. 4.  
p. 29.

... *que please a nre souveraigne Seignr le Roy grantier, que si ascun soit ou serra arreste par force de l' estatute fait l' an de vostre regne seconde, al requeste des Prelats & Clergie de vostre Royalme d' Engleterre, q'il purra estre lesse a mainprise, & faire sa purgation franchement sanz destourbance d' ascun en mesme le Conte ou il est arrestu. & que tieles arrestes soient desore en avant faitz en due forme de ley, par les Viscount, Mairs, Baillifs ou Conestables nostre Seignr le Roy, sanz violent affray, our force & armes, en depredation de leur biens, ou autre extortion ou injurye queconque en celle affaire.* But to this, *le Roy se voet ent aviser* is all the answer given. But whereas *Walsingham* speaks of this Parlt. as infected with *Lollardy*, certainly to me there is no such thing appeares in the Roll, but rather the contrary. But I

Walsing.  
anno 1410.  
422.

confesse

## Chap. VIII. of the Church of England. 159

confesse I did think before that law of *H. 4.* no Bishop in his Dioceſe, without a Provinciall Councell, could have convicted any man of hereſy, ſo as to have cauſed him been burnt; for mans life being a point of ſo high concernment in the law, and hereſy laying ſo great an imputation on the party, it ſeemed not to me probable, every angry Biſhop in his Court ſhould alone have power of determining what was by the canonick Sanctions ſo eſteemed, and whoſe words or writings could admit no other ſenſe then hereticall: and with this it ſeemed to me the practice did concur, for the Deacon burnt at Oxford ſuffered after conviction in a Provinciall Synod; and the conviction of *William Sautry* ſhewes plainly to have been after the ſame manner, & the Writ running, *Cum venerabilis pater Thomas &c. de conſenſu & aſſenſu, ac conſilio coepiſcoporum, ac confratrum ſuffraganeorum ſuorum, nec non totius cleri Provincia ſua, in concilio ſuo provinciuli congregato, juris ordine in hac parte requiſito in omnibus obſervato &c.* intimating (as it ſeemed to me) if otherwiſe, the Order of law had not been obſerved. And I did ever conceive this Law had increaſed the Power of the Ordinary, as well in permitting him ſingly to purſue the *canonick Sanctions* in convicting an hereticke, as in fining and imprifoning of him; eſpecially the ſtatute 1 of *Q. Mary*, that gave it life after the repeal of *Hen. the 8.* affirming, *before ſuch revivall the Ordinary did want authority to proceed againſt thoſe that were infected with Hereſy.* But I have ſince found, better opinion it was otherwiſe.

29. After this 2. *Hen. 5.* a Parliament at *Leiceſter* enacted, *The Chancellour, Treafurer, Juſtices of the peace, Sheriffs, &c.* ſhould take an Oath for deſtroying all manner of Hereſies, commonly called *Lollardries*, to be aſſiſtant to the Ordinary therein; Perſons convicted of Hereſy to looſe their fee-ſimple land; Juſtices of the Kings Bench, of the Peace and of Aſſize, to enquire of all holding any errors or hereſies

p *Rel. Parl.*  
2. *Hen. 4. n.*  
29.

q 1 & 2. *P. &*  
M. cap. 6.

r *Cook Inſt.*  
3. cap. 5. p.  
39.  
ſ *Stat. 2. Hen.*  
5. cap. 7.

heresies as Lollards, *their maintainers, receivers, fau-  
tors, &c.* and for that end a clause to be put into the Com-  
missions of Iustice of the Peace: yet forasmuch as the cog-  
nizance of heresie, errors, and Lollardries belonged to  
Iudges of holy Church, and not to the secular, the inditement  
taken by them not to be evidence, but for information be-  
fore the spirituall Iudge, into whose hands the person sus-  
pected to be delivered within ten dayes after his enditement;  
every man empanell'd in the Enquest for the tryall of them  
to have in England 5 pounds, in Wales forty shillings in  
land by the year &c. Which three lawes were each re-  
pealed by Hen. the 8<sup>th</sup> or Ed. the 6. and again restored by  
Q. Mary, under whom, by vertue of them, had in lesse  
then three yeares been spoyled for religion more Christi-  
an bloud of her subjects, then in any Princes reign since  
*Lucius.*

30. Things standing thus when Queen *Elizabeth*  
came to the Crown, the Ecclesiastick auctority exerci-  
sed at home and abroad with rigour and austerity, rather  
then Christian mildnesse; still to permit that, was the con-  
tinuing a fire to consume her people, and yet for every  
one to think and do without controule what him list,  
was to let loose all reins of government, to leave open a  
door for sedition to disquiet her Kingdome, and the  
Commonwealth perhaps not to be ever in peace: her  
M<sup>ty</sup> therefore took a middle way to agree with the pri-  
mitive times, and yet not let every profane humor dis-  
turb the Church, by erecting a Court with power to  
visit, reform, redresse, order, correct and amend all such  
errors, heresies, schismes &c. which by any spirituall or ec-  
clesiasticall power, authority, or jurisdiction can or may law-  
fully be reformed, ordered, redressed, corrected, restrained  
or amended; yet restraining them from adjudging any  
thing to be heresy, that had not been heretofore adjudg-  
ed such by the plain words of the canonickall Scriptures, or  
by any one of the first four generall Councells, or by any other  
generall

1 Stat. 1. Eliz.  
cap. 1.

generall Councell, wherein the same was declared hereby by the expresse and plain words of the canonickall scripture, or that should hereafter by the Parliament with the assent of the Convocation &c.

From whence ariseth a question of some intricacie, how it came to passe those times spake with so great submission to the four first generall Councells, and yet so restrained the other, without expressing which they were, nor any other particular concerning them. For the solution of which, we are to know, those have been ever looked on by the Catholick Church with more reverence then any other that ever yet were held. The \* Emperour *Iustinian* 541. declared which they were, and that he did receive *earum dogmata sicut sanctas scripturas, & regulas sicut leges observamus*; who made not the like mention of the fifth, though \* called by him, and held in his time. Neither did *Gregory* the great, who did reverence them, y *sicut sancti Evangelii quatuor libros*; make the same esteem of the fifth; for having made honourable mention of it in a letter to a Queen of *Lombardy*, sent by a Bishop of *Milan*, the Bishop gave it her not, on an opinion she might be scandalized at his naming of it: upon which † *S<sup>t</sup>. Gregory* sent him word he did well, and in that altered his epistle. And the year following, viz. 596, . the People of *Ravenna* opposing one *Maximianus* in being their Bishop, as not of sound belief, in that he did not carry so great veneration to the Councell of *Chalcedon*, he doth assure them of the contrary, that he did receive those four Councells, but makes no mention of the fifth. I do not deny but † the faith of the fifth and sixth were by this Church approved, yet never any of them had that great reverence yielded their dictats the first four had, which are therefore said to have been <sup>b</sup> *Synodi firmissima* by *Elfrick*, in his Canons to *VVulfstan*.

3 2. But these, however of this high esteem, yet had not the name of generall appropriated unto them till

Y

long

u *Novel.*  
131. cap. 1.  
in Cod.  
de summa tri-  
nitatis & fide  
catholica leg.  
9.  
x *Concil. gen.*  
*Roma*, 10. 2.  
p. 524, col. 1.  
E.  
y *Gregor. lib.*  
1. epist. 24.

z *Gregor. lib.*  
3. epist. 37.  
. Lib. 5. In-  
dict. 14. epist. 2.  
a *Beda lib.* 4.  
cap. 17. *Con-*  
*cil. calcut.*  
cap. 1. apud  
*Spelm. p. 293*;  
b *Canones*  
*Elfrici ad*  
*Wulfstanum* a-  
pud *Spelman.*  
*Concil. Can.*  
33. p. 587.  
vide *Egberti*  
*Archiepisc.*  
de sacerdotali  
jure cap. 4.  
*ibid. p. 273.*

long after; for certainly that distinction was not suddenly brought into the Church, at least in that sense it is now taken, many Synods by our writers being styled generall, to which yet th' obligation was never of that nature, as if they did not or could not erre. *Eadmerus* writes, *Anselm* told *William* the 2. *generale concilium Episcoporum ex quo Rex factus fuisti non fuit in Anglia celebratum*: and the like phrase is used very frequently for *English* councells not onely in him, but in our other eldest and best historians, as *Flor. Wigorniensis*, *Simeon Dunelmensis*, *Huntington*, & *Gervas. Dorobernensis*, *Hoveden*, &c. *Mat. Paris* speaking of a councell held at *Westminster* 1175. calls it *Concilium generale*, which in *Diceto* is changed to *Concilium Regionale*, and in the margin added (out of the M<sup>s</sup>. copy sometimes belonging to *S<sup>t</sup>. Albans*, and now at *Saint James's*, (the best and fairest I ever saw) and which I conceive *Mat. Paris* himself used) *solius Papa est concilium generale*, *Romanæ ecclesiæ* & *Constantinopolitanæ est concilium universale*: which I know not how he will make good, having the 3<sup>d</sup> and 4<sup>th</sup> Councell of *Carthage*,<sup>m</sup> and one held there 403. the Councell<sup>n</sup> of *Matiscun* and others to contest with, which being no other then particular, as we now esteem them, have in their acts the titles of being universall Councells. So the 4<sup>th</sup> Councell<sup>o</sup> of *Toledo* is said to have been generall; as by *Eymericus* a 7<sup>th</sup> Councell in *Tarragona*.

33. Now of such as have been so called, it is manifest the value set on them is altogether vanished, and was so long since. *Malmsbury* records, the Councells held by *Anselm* were in his time become *obsoleta*, their credit lost: and so we may say of the rest, for *Lyndwood* is very cleare no *English* Councells oblige this Church, before 1222. *Stephen Langton* held one at *Oxford*. As for those which the Popes called as *Patriarchs* of the West, which *Diceto* conceives were properly generall, the rite

c p. 24, 7.  
d Anno 1044.  
p. 405.  
e Anno eod.  
fol. 180, 23.  
f Hunt. fol.  
226, b. 3.  
g Ger. Dor.  
col. 1369, 62.  
h Hoved. Anno  
1044. fol.  
252, a. 35.  
Anno 1200.  
fol. 453, b.  
18.  
i Hist. minori  
& majori, p.  
131. 19.  
k Diceto col.  
185, 63.  
l To. 1. Con-  
cil. con. Carib.  
3. cap. 7.  
m concil. 4. in  
proem.  
n Ibid. Honor.  
Augusto &  
Kumorida  
Coff.  
o Tom. 2.  
p Concil. Arab.  
e. 20.  
q Ibid. in  
proemio.  
r Director.  
par. 2. quest.  
56. in fine p.  
q De vit.  
Pont. in An-  
selmo. fol.  
129, b. 30.  
s De penis,  
cap. ad hæc,  
verbo mini-  
me admit-  
tantur.



of former times was, never to send hence more then four Bishops unto them; which when it came in question 1179. *† Episcopi Angliæ constanter asseruerunt, quod ad generale concilium Dom. Papa quatuor Episcopi de Anglia tantum Romam mittendi sunt:* which is so full a testimony of his having no absolute power over our Bishops, nor so much as to cause them meet in councell, as there cannot well be a greater; and therefore when he imposed the oath ( of <sup>t</sup> which before ) on them, one clause was, *Vocatus ad Synodum veniam, nisi præpeditus fuero canonica præpeditio.* Yet in after Ages the going thither did onely remain at the Princes pleasure, <sup>u</sup> who gave them auctority *consentiendi, & si opus fuerit, dissentiendi his quæ juxta deliberationem dicti concilii inibi statui & ordinari contigerit.* All which I have spoke of generall Councells, that the Reader may know, when he meets that phrase in any author, he is not necessarily to conclude him to have conceived an obligation of following whatever they said, nor that he held it to have been void of Errour; for it is unquestionable, they and we give the name to such Synods as were esteemed full of imperfections, far from that freedome ought to be in *Generall Councells*, to whose Canons they did not hold themselves tyed.

34. But because in these cases examples of former times do more convince mens judgements, then present affirmations, to give some instances, not of other then of such as have been <sup>x</sup> lately printed, and with that title, at Rome; as the Councell of Vienna 1311. which by *· Gifburnensis*, who lived about that time, is noted to have been nothing lesse then a free Councell: the book is not printed, I will give you the whole therefore as I find it in him.

*Dominus Papa Clemens tenuit concilium suum Viennæ Anno Dom. Mcccxi. primo die mensis Octobris: in quo quidem concilio tres fecit sessiones.*

*† Hoveden fol. 332. a. 55.*

*† Cap. 3. u. 50, 51.*

*u Vide Seld. ad Eadmer. p. 214. ex Archivis potestatem commissam Ambassadoribus ad intercedend. concilio Basiliensi.*

*x 1608 & 1612. Rom. · Gualterus Hemingford Gifburnensis.*

I. In prima sessione, facto sermone, exposuit Clero tres articulos super quibus erat principaliter tractandum, & consulendum; super negotio terra sancta, quomodo posset recuperari & tueri, & super ordine Templariorum, qui pro nullo habebatur; praecepitque omnibus Pralatis, & singulis qui convenerant, quod super praemissis articulis usque ad secundam sessionem deliberarent.

II. In secunda sessione facta est longa disputatio de ordine Templariorum, utrum stare posset, vel deleri de jure deberet. Et erant pro ordine Templariorum pralati quasi omnes, praeter pralatos Franciae, qui propter timorem Regis Franciae (per quem, ut dicebatur, totum illud scandalum fuerat) aliud facere non audebant. Erant in toto Concilio (quod Concilium dici non merebatur, quia ex capite proprio omnia fecit Dominus Papa, non respondente neque consentiente sacro Concilio) baculi pastores circa cxxx.

III. In tertia sessione Dominus Papa [sedit] pro tribunali, & ab uno latere Rex Franciae, ab altero Rex Naverniae filius ejus: surrexitque quidam Clericus, & inhibuit sub poena excommunicationis majoris, ne aliquis loqueretur verbum in concilio, nisi licentiatum vel requisitum à Papa. Recitatoque processu Templariorum, adjecit Papa, Quod licet ex processu praehabito ipsum Ordinem de jure delere non posset, tamen ex plenitudine potestatis Ordinem deleuit, nomen & habitum, terras eorum & possessiones Hospitalariis conferendo, aggregando, & uniendo.

35. The like may be said of the Council of Lateran under Innocentius 3. in which there was onely recitata (as what the Pope had before concluded on) capitula y lx, quae aliis placabilia, aliis videbantur onerosa, &c. Which with the great extortion then exercised on the prelates appeared in it, the little credit it gained in England, might justly cause & th' *Antiquitates Britannica Ecclesiae* write it to end in *risum & scomma*: which words are none of *Mat. Paris*, but of the auctors; though the marginall

y Sic Mat.  
Paris Anno  
1215. p. 272,  
26. lege tamen  
capitula lxx.  
2 p. 151, 19.  
edit. Lond.

# Chap. VIII. of the Church of England. 165

ginall note against them in<sup>a</sup> the edition of *Hana* 1605. <sup>a p. 158, 47.</sup>  
hath given an occasion of mistake, which should have  
been placed fivelines lower, as it is in that \* of *London* <sup>\* p. 151, 23.</sup>  
1572. for that he there speaks of the prelat's borrowing  
to satisfy the papall avarice, is as Archbishop Parker, or  
whosoever else composed those lives, thus delivered  
in <sup>b</sup> *Historia minori*; *Tunc autem temporis solutum est* <sup>b Mat. Paris.  
hist. minor.  
Ms. p. 172.  
et fol. 26 five  
89. col. 2. An-  
no 1216. Vide  
Abbaum vi-  
tas pag. 117.  
39, 43.</sup>  
*concilium generale: Papa vero prelat's petentibus licen-  
tiam repatriandi minime concessit, immo à singulis auxi-  
lium in pecunia postularvit, quam recessuri cum viaticis  
cogebantur à Mercatoribus curiæ Romanæ duris conditio-  
nibus mutuare, & sic cum benedictione papali ad propria  
remearunt --- per idem tempus instante festo Paschali, &c.*

36. This I have the rather transcribed, because some  
are of opinion that Councell ended 1215; which cer-  
tainly it did not till towards Easter the year following;  
and then too abruptly, the Pope called away on a sud-  
dain for appeasing the wars growing in *Italy*, the 16 Iu-  
ly 1216. dyed: which makes it without either time when  
it began or ended, nothing being fully concluded but  
th' expedition against the Sarazins, for the recovery of  
the Holy land. Of this I have made the more particular  
mention, for that having given advertisement of it to  
Doctor *Wals* (who hath with great sincerity and judg-  
ment put out *Mat. Paris.*) that he might clear the Arch-  
bishop in his *Adversariis*, I know not by what fate he  
applies his note to pag. 138, 5. which refers to the  
Councell held there by *Alexander* the 3. 1179. when  
it should have been to pag. 272. or pag. 274. 6. and thinks  
he called the lives of the Abbots the *Historia minori*; who  
I am perswaded \* never saw that book, but did write  
candidly what he found in *Historia minori*.

37. But that this Councell was never received gene-  
rally here is manifest, in that divers Canons in it were  
not of force in *England*, as the 3, the 41, the 46, to which  
I may adde the very first; for though <sup>c</sup> *Peckham* 66 years

\* See the pre-  
face to *Mat.*  
*West* pag. 5.  
<sup>c</sup> *Lyndwood*,  
de *summa*  
*Trinitate* &  
fide *Carho-*  
*licæ*, cap. *Al-*  
*tissimus*.

d ibid. de pœ-  
nitentiis &  
remissionibus.

e De custodia  
Eucharist.  
cap. 2.

f Mat. Paris  
Hist. minor.  
Anno 1216.  
§ Barones,  
p. 172. col. 2.

..Which Coun-  
cell of Lateran  
this was, is  
uncertain, whe-  
ther that under  
Innocentius 2.  
or this by In-  
nocentius 3.  
but most likely  
that under In-  
nocent 3. as  
which himself  
was present.  
\* Binius reads,  
& aliis capi-  
tulis, thereby  
adding  
strength to  
every chapter

after did make a constitution in that point; yet he did, to my understanding, not speak of Christs presence in the Eucharist so grossely, nor determine it to be by Transubstantiation, as the first chapter of the other doth: but of that hereafter. And whosoever shall peruse <sup>d</sup> *Simon Sudburies* constitutions 1378 touching confession, will find so much variation from the 21 chapter of that Synod, as he cannot think he took that for a rule not to be varied from. To which I may adde, that <sup>e</sup> *Peckham* provides the punishment of the negligent conserver of the holy Sacrament to be *secundum regulam concilii generalis*, meaning the 20<sup>th</sup> chapter of this I speak of; which had it been of force otherwise, he had no doubt commanded the due observance of it, not by his command added strength to the rule there given. It is true, *Stephen Langton*, to ingratiate himself with *Rome* (whom he had so much displeased, as <sup>f</sup> the Pope intended to remove him from his Archbishoprick on the Kings desire, but stopt on the intercession of the Court, and his being a Cardinall) did at the end of his Synod at *Oxford* 1222 enjoin the Councell .of *Lateran* held under Pope *Inno-*  
*cent*, in the paying of Tythes and other litigious \* causes, to be observed, & in *Synodis episcopalibus constitutiones illius concilii, una cum istis, prout videbitur expedire, [ex-*  
*poni volumus & recitari:]* which last words *Binius* hath changed, I know not on what auctority, to *volumus ob-*  
*servari*, when questionlesse th' English took them for advise, not a precept: and their little regard of them ap-  
pears by the particulars mentioned. Neither doth *Lynd-*  
*wood* make any mention of this part, though he have, I think, all the rest were agreed there: & is it self altogether omitted in some old copies of that Council I have seen;

one

of that Councell: when certain the reading should be, according to ancient copies, in præstatione Decimarum & aliis causis, referring onely to what past there touching Tythes, and the payment of them by the Cistercian order. for land acquired asier that time, which severall Acts of Parl. confirmed afterwards. As for the other constitutions there propounded, he after gives the rule with what cau-  
tion they were to be expounded and recited, as they should be held expedient, and not otherwise.

one of which is joyned with the Mss. Annals of *Burton* Abby in *S<sup>t</sup> Thomas Cottons* Library. But the Acts of this Councell being, with divers others, printed at the end of the constitutions of *Otho* and *Othobon* at *Paris* 1504, and since by *Binius* transferred into his third tome the second part, this is alledged by some men, as if what past at *Lateran* had been of undoubted validity with us; when no question, what was done there hath never been taken here as the decrees of a generall Councell, like that of *Nice* or &c. but of *Innocentius* 3<sup>rd</sup>, as they stand in the Decretalls (compiled by *Gregory* the 9<sup>th</sup> his Nephew) with this title, *Innocentius* 3. in *Concilio Lateranensi*, as those by him propounded, but not fully concluded in councell, according to *Platina*, and from which this Church varied as occasion served. Yet if any shall insist this conclusion of 1222. to have been of greater validity then I speak, I must adde, that if it really were made with such an intent by the Ecclesiasticks, it cannot be thought to have obliged us more then that declaration of the Bishops 1615 did the *French*; who

*8* having meurement delibere sur la publication du concile de Trente, ont unanimement reconnu & declare, & recognoissent & declarent, estre obligez par leur devoir, & conscience, a recevoir, come de fait ils ont receu & recoivent, le dit concile, & promettent l'observer entant qu'ils peuvent par leurs fonctions, & auctorite spirituelle, & pastorelle, and caused the same to be printed. Yet that of *Trent* had never validity in *France*, nor the other in *England*, notwithstanding what thus past the Clergy.

38. Neither was that other Councell of *Lateran* under *Innocentius* 2. ever received here: though the Pope there <sup>h</sup> *in signem sacrorum Decretorum textum congesit*, yet *nimis abundans per universum orbem nequitia terrigenarum corda contra ecclesiastica suta obduravit*; from whence it proceeded, that when they were divulged they did no good, *quoniam a principibus & optimatibus*

*g* *Preuves des*  
*liberies de*  
*l'Eglise de*  
*France* p. 325.

*h* *Ordericus*  
*Vitalis lib.*  
*13. p. 919. B.*

*regno*

*regnorum, cum subjectis plebibus, parvi pensasunt.* Now that it was never received here appears, (besides this testimony) in that the marriage of a professed Nun was adjudged valid, contrary to the 7. Canon of it, and that too after it was registred in the <sup>k</sup> Canon Law: which shews, this Church did neither admit the Canons of forreign Councils, nor the Canon Law it self to alter their ancient customes; as is farther manifest by the statute of *Merton* cap. 9. Neither was the Council of *Sardis* ever allowed in *England*, as is manifest by what before of Appeals, which yet by the Capitulars of *Charls* the great and *Ludovicus Pius* was even in that particular in *France*; which made <sup>2</sup> St. *Bernard* write of them, *in multas posse eas devenire perniciem, si non summo [moderamine actitentur: Appellatur de toto mundo ad te] id quidem &c.* for so the place is to be read, as I have seen in two very good Mss, and one late printed, not as in the former editions of him, as at *Paris* 1586. By these precedents the Reader may judge how necessary it was for the Parliament to make a distinction of Councils. Now in these, with sundry of as doubtfull credit, being of late <sup>1</sup> printed at *Rome*, as if they were of equal value with the first, I have thought fit to instance. And here having made mention of *receiving Councils*, as if that added strength unto them, it will be necessary to say something of that too, for the fuller clearing of this Church.

39. The Apostles as they shewed a pattern for <sup>m</sup> holding Councils to settle disputes amongst Christians; so *Paul* and *Silas* in their travells delivering the <sup>n</sup> Decrees by them ordained to be kept by severall Churches, shew'd it to be reasonable, such as were absent should receive what was done in any Synod, before they were obliged by it; and accordingly, in the primitive times, those were not present at the holding a synod, had the results sent or brought unto them after the conclusion taken, who did in their own Churches subscribe (find-  
ing

<sup>i</sup> Regist. Islep.  
fol. 166. b.  
<sup>k</sup> Apud Gratian. caus. 27.  
q. 1. cap. 40.

<sup>1</sup> Carol. O.  
Lud. capit.  
lib. 7. cap.

323.

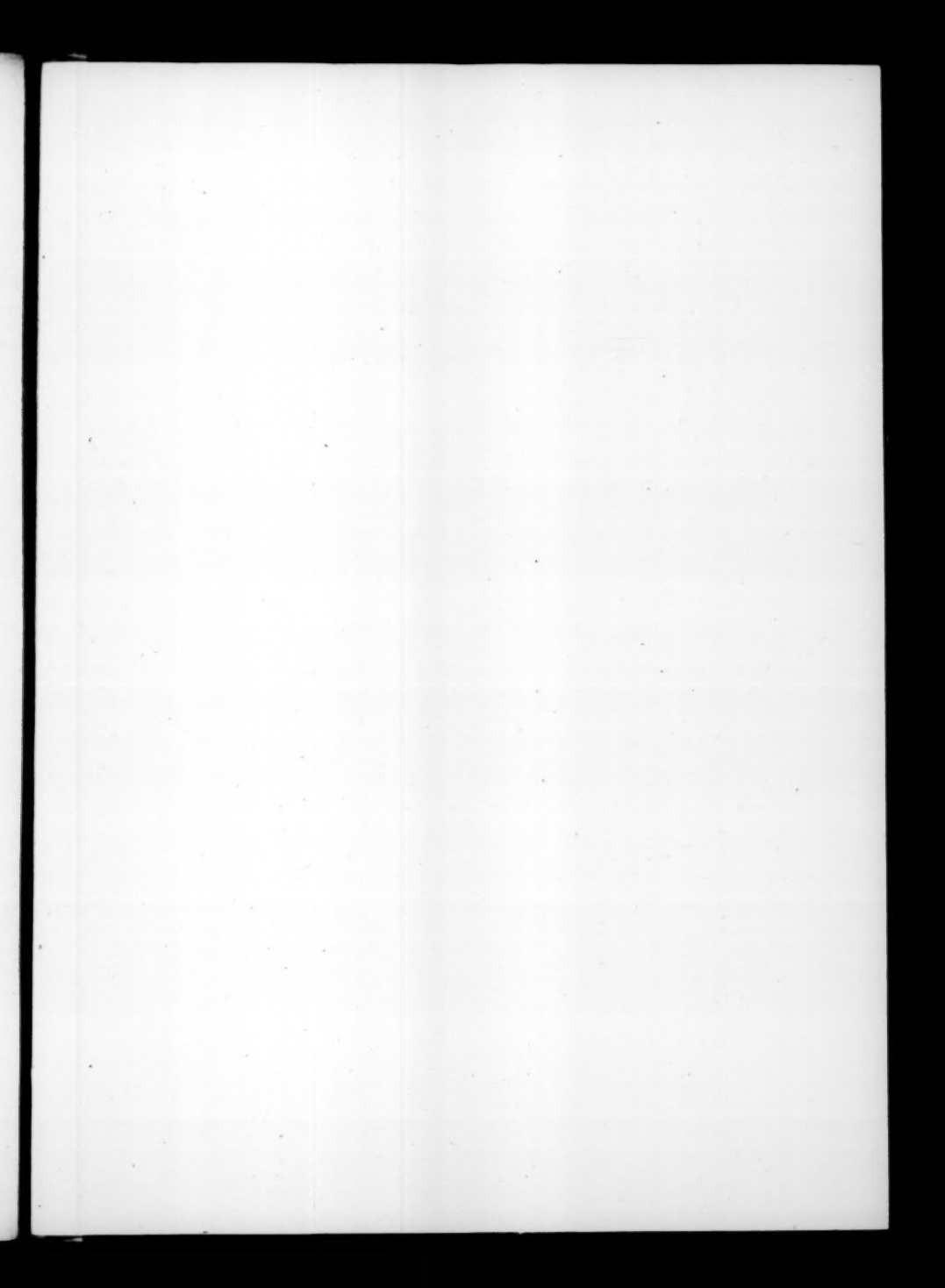
<sup>2</sup> Bern. de  
consideratione  
ad Eugenium,  
lib. 3. cap. 2.

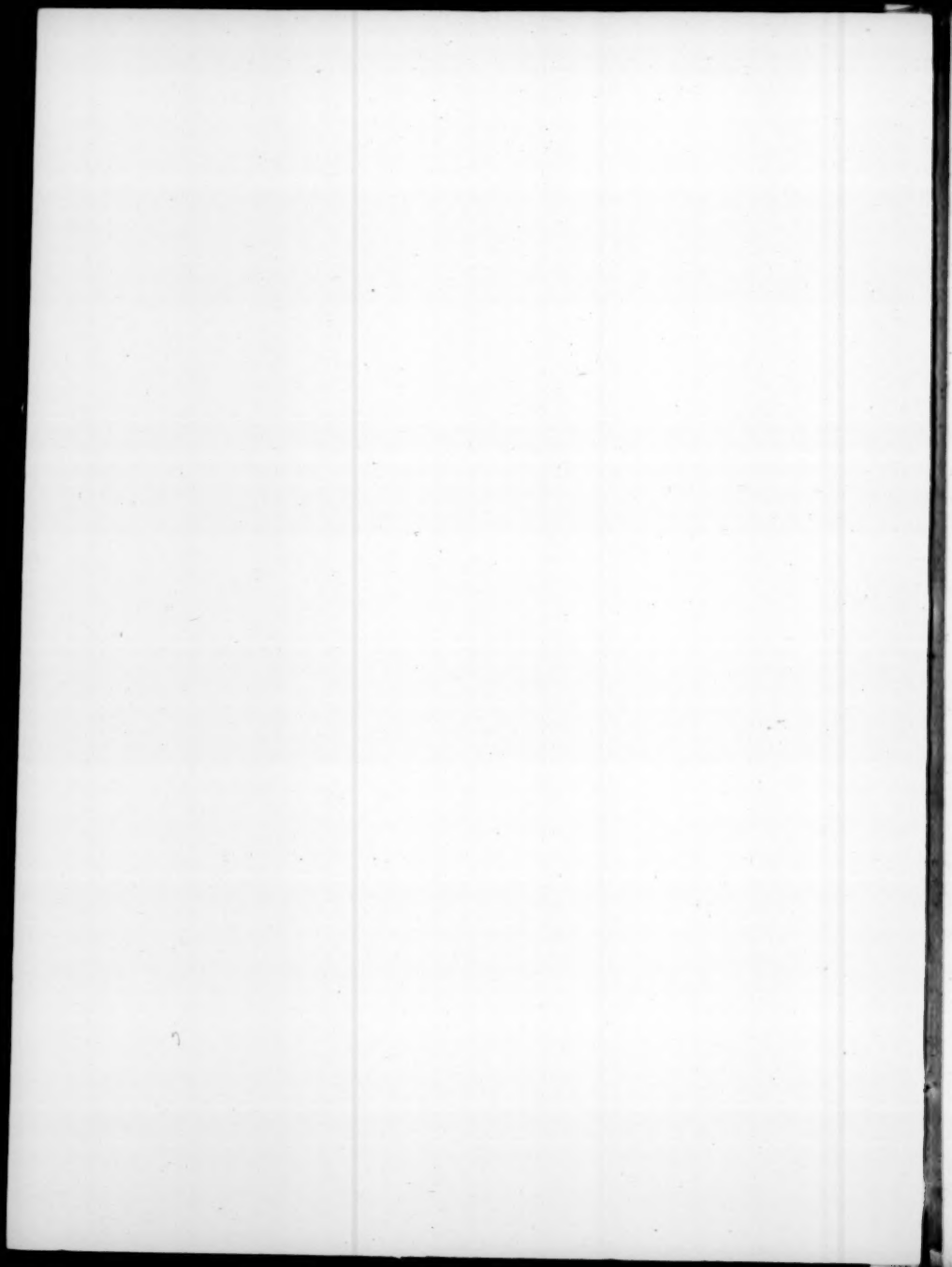
<sup>1</sup> Concil. gen.  
*Rome*, 1608,  
1612.

<sup>m</sup> Acts the  
xv.

<sup>n</sup> Acts xvi, 4.







ing them just and pious ) what the others had in Councell agreed upon, and then reposed them amongst their Records, called by S<sup>r</sup> Hierom ° *Scrinia publica*, *Ecclesiarum arce* &c. So P *Cecilian*, being present at *Nice*, brought to *Carthage* the Decrees there concluded, who submitted unto them; and 1 S. *Athanasius* of that Councell sayes, *Huc Concilio universus orbis assensum prebuit; & quanquam multe habitæ sunt Synodi, hujus tamen omnes sunt memores, tum per Dalmatiam, Dardaniam, aliasq; insulas, Siciliam, &c. & pleriq; in Arabia hanc agnoverunt, & subscriptione approbarunt, &c.* And of the 1 Councell at *Sardis* it is recorded, *Ὅθεν ἡμεῖς ἐκείνη, καὶ αὐτοὶ πάντες: ταῦτα γράψαντες ἡμεῖς Σαρδινίᾳ ἀπέπεμψεν· ἃ τίς ποτε καὶ παρὲς τοῦ καὶ ἀναβήντος ἀπαντήσας, καὶ ἐκείνηται καὶ αὐτοὶ συμφέρον τῆς ἐκκλησίας τοῦ ἐν τῇ συνόδῳ γράψαντες· καὶ ἡμεῖς ἄλλαν τὰ ὁμολογῶντες ἐστὶ ταῦτα.* which I *English* thus; *Ofius the Bishop subscribed, and so did the rest. These things being copied out, the Synod in Sardis sent to those could not be present, who were of the same mind with what had been determined of those subscribed in the Synod; and of the other Bishops these are the names.*

40. After which 1 *Athanasius* (from whom this epistle is taken) adds, *qui igitur decretis subscripserunt sunt isti* — in *universum* 344. Hence it grew, that though some Councils had but few at the holding of them, yet the subscriptions were numerous. 1 *Baronius* observes the 5<sup>th</sup> Councell of *Carthage* to have been held by 22 onely, (I conceive it should be 72.) yet had 217. subscribers, which was after the ending of it, by Bishops in their own Churches, when they admitted of it. So the \* Synod of *Antioch* about 341. sending their conclusions to absent Churches, writ unto them, they did believe they would assent to what they had done, *et ea que visa sunt recta roborantes cum consensu sancti Spiritus consignabitis*. It is of no use to dispute here, whether this were an *Arrian* or a *Catholick* Councell: be it either, it still denotes the manner then used; as doth the \* third Coun-

o Hieron. ad-  
versus Luci-  
ferianos 10. 2.  
fol. 52. a.  
Paris 1534.  
p. 60. 6.  
Carthag. cap. 9.  
q. Epist. ad  
Aphros inter-  
prete Petro  
Nannio. Pa-  
ris 1572. col.  
537. c.  
1 Concil. gen.  
p. 64. c.

f Epist. ad  
Maximos &c.  
col. 424. a. b.

c Tom. 5. anno  
419. n. 59.

u Concil. An-  
tioch. 10. 1.  
Concil. in  
proem.

x Concil. To-  
let. 3. S. Con-  
fitemur. tom.  
concil. 2.

cell of Toledo held Anno 589. which speaks thus, *Constitutiones sanctorum conciliorum, Niceni, Ephesini, Constantinopolitani vel Chalcedonensis, quas gratissima aure audivimus, & consensione nostra veras esse probavimus, de toto corde & de tota anima & de tota mente nostra subscripsimus*: and another held there, having received with the letters of Pope Leo the 2. the sixth generall Councell, invited all the Prelats \* of Spain, *ut predicta synodalia instituta quæ miserat, nostri etiam vigoris manerent auctoritate suffulta, omnibusque per nos sub regno Hispaniæ consentientibus pateficerent divulganda.*

41. By all this it is plain, the manner of former times was to disperse the Decrees of Councells to absent Churches, who by subscriptions were said to have confirmed, and, so far as lay in them, by suffrage, to have given strength to that such meetings had agreed unto. And as Popes did thus confirme what other Bishops had concluded in their Synods, so did they in like manner his. In the year 1095. Urban the 2. held a Councell at Clermont in Auvergne, at which were present severall Prelats of Normandy, who at their return brought letters from the Synod, upon which William Archbishop of Roan caused the Norman Bishops to meet there, who *capitula Synodi quæ apud Clarum montem facta est unanimiter contemplati sunt, scita quoque Apostolica confirmaverunt.* It is true, the Pope being the Patriarch of most note in the world, and of greatest dignity in the West, usually the Acts of forraign Councells were directed unto him, & which he dispersed through Italy and other parts of Europe; but his approbation was not enough to oblige other Churches, till what came from him was by themselves allowed: neither was this dispersing so appropriated to his Papacy, as if there were never any other divulging of them; the second Councell of Nice held 787. or 788 as Diceto accounts, was sent from Constantinople to Charls the great, then

\* Baron. to. 8.  
Anno 685. n.  
25.

γ Ordericus  
Vitalis lib. 9.  
p. 721. B.

z Vide Euseb.  
Nediolanens.  
post epist.  
52. Leonis,

## Chap. VIII. of the Church of England. 171

then onely *Rex Francorum*, and by him 792. higher, where it was rejected.

42. From hence it proceeded, that part of the Acts of one Councell did not bind some Churches, which did others; as some parts of the Councell of *Chalcedon* and *Ephesus* seem not to have been received in *Rome* in <sup>a</sup> *S. Gregories* time, to which may be added some <sup>b</sup> *Canons* of the 7<sup>th</sup> Councell. But I believe it will be hardly shewed from the ancients, that any Church, neither intervening in Councell by proxy, nor that did after admit of it, were ever held concluded by any, though never so numerous. Certainly none was ever held of greater esteem amongst Catholicks then the Council of *Nice*; yet <sup>c</sup> *S. Augustine*, in his dispute with an *Arrian*, confesses neither the Councell of *Nice* ought to prejudice the *Arrian*, nor that held at *Ariminum* him, *sed utrisque communibus testibus, res cum re, causa cum causa, ratio cum ratione concertet*. And <sup>e</sup> *St. Hilary*, comparing two Councells, one of 80. Bishops which refused the word *homo*, with that of *Nice* which received it, sayes, *si contraria invicem senserunt, debemus quasi iudices probare meliora*: so not onely taking from them all infallibility, but allowing others to judge of their doings, before they submitted unto their determinations.

And this hath been the so constant observance in all times, as no age ever held the *Latin* obliged by the *Grecian* Synods which they have not received; neither doth the *Greek* Church to this day hold themselves tyed by the determinations of *Florence*, or to the many other of the *Latin* touching the procession of the holy Ghost, and other points in difference, to which they have not submitted.

43. But for that the Acts of Councells, without temporall auctority to inforce the observance of them, were no other then persuasive, Princes (either on the incitation of their Bishops, or convinced of the justnesse and piety of what had past in those Ecclesiastick Assemblies)

<sup>a</sup> *Gregor.*  
lib. 6. epist. 31.  
<sup>e</sup> lib. 7. epist.  
47. Indist. 2.  
<sup>b</sup> *General.*  
*Cuncil. Romae*  
tom. 1. p.  
684. 685. in  
margine.

<sup>c</sup> *contra Ma-*  
*ximum Arri-*  
*anorum epist.*  
lib. 3. cap. 14.  
to. 6. vide etiam  
de unitate Ec-  
clesi. cap. 16.  
to. 7.  
<sup>e</sup> *De Synodi*  
*adversus Ar-*  
*rianos prope*  
*finem p. 243.*

did often by their letters exhort, or by their laws command the observance of what resulted from them. So *Constantine*, after the Councell of *Nice*, wrote that letter remains recorded in <sup>d</sup> *Socrates* and *Theodoret* to some absent Churches, for their admitting the resolutions of it: in which he tells them he had undertook that what the Romans had already, *de quibus nunc non est quæstio, nec de his quibus*, that their judgment would willingly receive. \* And *Gratian*, *Valentinian*, *Theodosius* did in the year 381. by their rescripts establish the same Councell, as <sup>f</sup> *Iustinian* by the law before mentioned did all the four first; which I take to be the same \* *St Augustin* calls inserting them *actis proconsularibus*.

44. Of later times Popes, having by severall arts acquired the greatest part of Episcopall power to be devolved to them, have likewise claimed it as a right belonging to the Papacy, not onely to call Councells, but to determine which are generall, who are to vote in them; and therefore though properly, *ordinarie*, none but Bishops have there (say they) *jus suffragii*, yet *ex privilegio & consuetudine* Cardinals, Abbats, and Generalls of Orders are to be allowed voice; and that there needs no other then the Popes confirmation in *Rome*, to oblige all Christians to the observance of any he shall hold out for such, as *Pius 4<sup>th</sup>* by his bull of the 18 July 1564. declared, all in the Councell of *Trent* *juris positivi* did the world from the first of *May* before, &c. And though all History agree, and the very Councells themselves assure us, the causing the *East* and *West* to meet in those assemblies, to have been ever done by Emperours, and that Princes on occasions have called the Clergy within their estates together for composing disputes in religion; yet the bare affirmation, without any real proof, hath so far prevailed with some men, as to esteem him little other then an heretick shall maintain the contrary.

45. But

<sup>d</sup> *Socrat. lib. 1. cap. 6.*  
<sup>e</sup> *Theodor. lib. 1. cap. 10.*

<sup>e</sup> *Cod. Theod. de fide Cathol. leg. 3. de Hæres. leg. 6.*  
<sup>f</sup> *n. 21.*  
\* *To. 8. in Psal. 57.*

<sup>g</sup> *Vellarm. de concil. lib. 1. cap. 15. §. At Catholicorum.*



45. But Kings have not so easily parted with these rights: for the State of *France*, notwithstanding the many solicitations of Popes from abroad, and their Clergy at home, hath not hitherto been induced to approve what was determined at *Trent*; however you shall hardly meet with any of the *Roman* party, but he will tell you that the points of faith there agreed upon, are received in *France*, but not of manners, and government: which is in a kind true, yet contains a notable fallacy; for the Ecclesiasticks of that kingdom finding the difficulty of procuring that Councell to passe, have in their provincial Synods, <sup>h</sup> *conspiratione quadam, venia in quaque Diacesi cogendi Synodos impetrata*, inserted the greatest part of the doctrinall points of it into those Councells; so that it is truth, they are indeed there received, yet not for that they were concluded upon in *Trent*, but because Episcopall Councells have each in their Dioceses establishd what they could perswade *nec regibus, nec supremis Parlamentorum curiis, ut Synodi istius Canones in acta sua referrent, & observandos publicarent*. Neither hath the Councell of *Florence* under *Eugenius* 4<sup>th</sup>, or of *Lateran* held by *Innius* the 2. and *Leo* the 10, been hitherto allowed by *France*, or *England*, where the most zealously affected to *Rome*, as *S<sup>r</sup> Thomas Moore*, have <sup>i</sup> maintained the superiority of a generall Councell above the Pope <sup>k</sup> in opposition to either of them; though <sup>l</sup> that be a point rather of faith then manners. Upon which grounds, those Councells before spoken of did not bind here, farther then what was in them hath been made good by provincial Synods within the Nation.

By all which it being certain, neither this Church nor Kingdom hath ever been tyed by the Acts of any forraign councell nor admitted here, and being perhaps a thing of some intricacy, what determinations the Realm had received after the four first generall Councells, her Majesty took the way of receiving them as absolutely neces-

<sup>h</sup> *Rockellius institui operis ratio.*

<sup>i</sup> See his letter to *Cromwell* at the end of his works, and the originall in *S<sup>r</sup> Thom.*

*Cottons Library.*  
<sup>k</sup> *Counc. Florent. Sess. 25. Counc. gen. Rome tom. 4. p. 584. ibid.*


*Counc. Later. sub Julio 2. Leone 10. Sess. 11. p. 175. col. 2.*  
<sup>l</sup> *Bellar. de concil. lib. 2. cap. 17. §. Ad hanc locum.*

1311 *Eliz. cap.*  
1.

sary, but others with such limitations as are in <sup>m</sup> the statute, and for the future, nothing to be heresy, but what should be determined to be such by the Parliament, with th' assent of the Convocation.

## C H A P. I X.

## Of the farther proceeding of Queen Elizabeth in the Reformation.

1.  Hings thus settled in 1<sup>o</sup> *Eliz.* the Parliament ended, the Liturgy of the Church, commonly called the book of Common prayer, reformed, and published, the Queen, <sup>a</sup> following the examples of her predecessors, and relying on the ancient Symbols as the doctrine of the Catholick Church, gave command the *Creed*, the *Pater-noster* and *ten Commandements* (as the grounds for a Christian to believe, and frame his life after) should be taught her subjects, and none to presume to come to the Lords table before they could perfectly say them in *English*.

<sup>a</sup> *Canones dati*  
*sub Eadgaro*  
*et legibus*  
*ejus annexi.*  
*p. 67. Leg. Ca-*  
*nui. cap. 22.*  
*p. 105. See be-*  
*fore cap. 4.*  
*n. 6. §. iij.*

2. Hitherto to my understanding her Majesty had not done any thing not warranted by the practise of her predecessors, nor that could be justly interpreted a departing from the Apostolick faith, or indeed from *Rome* it self; where she kept an Agent, <sup>b</sup> till *Paulus 4<sup>th</sup>* <sup>s</sup> during the Parliament commanded him to relinquish the title of Ambassadour, and not to stir out of *Rome*. So that if there were any departure, it must needs be the Pope made it, not the *English*; (who was so incensed, he would not at first acknowledge her Queen, nor after permit any from her in the quality of Ambassador to reside with him, though she had not done any thing but according to the

<sup>b</sup> *Camden.*  
*Annal. Anno*  
*1559.*

## Chap. I X. of the Church of England. 175

the ancient rights of the Kingdom, and the usages of former Princes.) But suppose (which will never be proved) her Matie to have gone farther then was fit for a Christian Prince in settling Religion, certainly she had just cause to conceive she might do it, having so many precedents of her ancestors in the case. Yet *Paulus 4<sup>th</sup>* breaks off all intercourse: some of his party first would not Crown her, then spake of excommunicating of her; indignities no Prince but must be sensible of.

3. Yet it seems, the first heat past, the Queens moderation was better received at *Rome* then at home: where the Pope, however a violent heady man, considering no doubt his own loss in breaking off all commerce with so potent a Kingdom, began to hearken to terms of accommodation, and was content things should stand as they are, the Queen acknowledging his primacy, and the reformation from him. But his death ensuing the 18 *August* 1559. left the designe to be prosecuted by his successor *Pius 4<sup>th</sup>*, who by letters (sent by *Vincentius Parpalia*, a person of great experience, employed by Cardinall *Poole* in his former negotiations, and of late in that hither,) of the 5<sup>th</sup> of *May* 1560. directed *charissimæ in Christo filia Elizabethæ Regina Angliæ*, did assure her, *omnia de nobis tibi pollicere, quæ non modo ad animæ tuæ salutem conservandam, sed etiam ad dignitatem regiam stabilendam & confirmandam, pro autoritate, pro loco ac munere quod nobis a Deo commissum fuit, a nobis desiderares, &c.* Upon this, and their relations who then lived, and had part in the action, the *English* affirm *Pius 4<sup>th</sup>* would have confirmed the liturgy of the Church of *England*: and indeed how can any imagine other? for doubtlesse nothing could have been more to her dishonour, then so suddainly to have changed what she had with so great consideration establisht; and the Pope assuring her, she might promise her self from him all he could do, I know not what lesse or other he could expect.

c *Tortura*  
Tortii, p. 142.

d In *Camdeni Annal.*  
Anno 1560.

*c* Prefat. lib. 7.  
relat.

pect she would ask. But where *S<sup>r</sup> Edward Cook*, in his charge at *Norwich*, as it is now printed, sayes this offer came from *Pius 5<sup>th</sup>*, I conceive it a mistake, and should have been *Pius 4<sup>th</sup>*, (as in another place he names *Clement* the 9. who yet never was, for *Clement* the 8.) and the rest of the narration there not to be without absurdities, and to be one of those deserves the authors censure, when he says, *c there is no one period* in the whole expressed in the sort and sense that he delivered it; for certainly *Pius 5<sup>th</sup>* from his coming to the Popedom 1566, rather sought by raising against her forraign power abroad, and domestick commotions at home, to force her to his obedience, then by such civil ways as we now speak of to allure her; though the thing it self is no question true, how ever the person that offer'd it be mistaken in some circumstances.

*f* Parallel.  
*Torii & Tor-*  
*toris*, p. 247.

4. They *f* that make a difficulty in believing this, object it to have been first divulged 1606. 46 years after the profer of it. That *S<sup>r</sup> Edward Cook* averr'd to have received it from the Queen her self, not then alive to contradict him. But for my part I confess I find no scruple in it, for I have ever observed the wisdom of that Court, to give what it could neither sell nor keep; as *Paulus 4<sup>th</sup>* did the Kingdom of *Ireland* to Queen *Mary*, admitted the five Bishopricks erected by her father, approved the dissolution of the Monasteries made by him, &c. of which nature no question this was. For the being first mentioned 46 years after, that is not so long a time but many might remember; and I my self have received it from such as I cannot doubt of it, they having had it from persons of nigh relation unto them who were actors in the managing of the business. Besides, the thing it self was in effect printed many years before; for he *g* that made the answer to *Saunders* his seventh book *de visibili monarchia*, *h* who it seems had been very careful to gather the beginnings of Queen *Elizabeth*, that there

*g* Servi fidelis subdito infideli responsio, apud Iohannem Dayum 1573. h p. 121.

there might be an exact history of her, *tandem aliquando, qui omnia acta diligenter observavit, qui summis Reipublicæ negotiis consulto interfuit,* relates it thus.

5. That a noble-man of this Country being about the beginning of the Queens reigne at Rome, Pius 4<sup>th</sup> asked him of her Maties casting his auctority out of England, who made answer that she did it being perswaded by testimonies of Scripture, and the laws of the realm, *nullam illius esse in terra aliena jurisdictionem.* Which the Pope seemed not to believe, her Majesty being wise and learned, but did rather think the sentence of that Court against her mothers marriage to be the true cause; which he did promise not onely to retract, *sed in ejus gratiam quæcunque possum præterea facturum, dum illa ad nostram Ecclesiam se recipiat, & debitum mihi primatus titulum reddat.* and then adds, *extant apud nos articuli Abbatis*

\* Sanctæ salutis manu conscripti, extant Cardinalis Moronæ literæ, quibus nobilem illum vehementer hortabatur, ut eam rem nervis omnibus apud reginam nostram sollicitaret. Extant hodie nobilium nostrorum aliquot, quibus Papa multa aureorum millia pollicitus est, ut istius amicitie atque fœderis inter Romanam cathedram & Elizabetham serenissimam authores essent. This I have cited the more at large, for that Camden seems to think, what the Abbot of St Saviour propounded was not in writing, and because it being printed seven years before the Cardinall Moronas death, by whose privy (as Protector of the English) this negotiation past, without any contradiction from Rome, there can no doubt be made of the truth of it. And assuredly, some who have conveniency and leisure may find more of it then hath been yet divulged: for I no way believe the Bishop of Winchester would have been induced to write, it did constare of Paulus 4<sup>th</sup>; nor the Queen her self, and divers others of those times, persons of honour and worth, (with some of which I my self have spoken) have affirmed it for an undoubted

A a

truth,

i Ibid. p. 70.  
71. the book is  
not printed  
with pages,  
but they are  
added with a  
pen.

\* Sancti Salvatoris Cam-  
den Anno  
1560. calls  
him. who in  
the year 1562.  
seems to have  
been em-  
ployed by the  
said Pope into  
France. Hist.  
Concil. Trid.  
lib. 6. p. 501.  
and of whom  
mention is  
made in the  
life of Cardi-  
nall Poole,

truth, did not somewhat more remain (or at least had formerly been) then a single letter of *Pius 4<sup>th</sup>*, which apparently had reference to matters then of greater privacy. And here I hold it not unworthy a place, that I my self talking sometime with an *Italian* gentleman (verſt in publick affairs) of this offer from the Pope, he made much ſcruple of believing it; but it being in a place where books were at hand, I ſhew'd him on what ground I ſpoke, and asked him if he thought men could be Devils, to write ſuch an odious lie, had it not been ſo. *Well* (ſays he) *if this were heard in Rome amongſt religious men, it would never gain credit; but with ſuch as have in their hands the Maneggi della corte,* (for that was his expreſſion) *it may be held true.*

6. Indeed, the former author doth not expreſſe, (as perhaps then not ſo fit to be publiſh'd) the particulars thoſe articles did contain were writ with the Abbots own hand; (which later pens have divulged) but that, in generall, it ſhould be any thing lay in the Popes power, on her acknowledging his primacy: and certain no other could by him have been propounded to her, nor by her with honour accepted, then that of his allowing the *Engliſh* Liturgy: ſo that they who agree he did by his Agent (according to his letter) make propoſitions unto her, muſt inſtance in ſome particulars, not diſhonorable to her ſelf and Kingdom to accept, or allow what theſe writers affirm to have been them. And I have ſeen and heard weighty conſiderations, why her Maſteſty could not admit her own reformation from *Rome*; ſome with reference to this Church at home, as that it had been a tacite acknowledgment it could not have reformed it ſelf, which had been contrary to all former precedents; others to the State of Chriſtendom as it then ſtood in *Scotland, Germany, and France*: but with this I have not took upon me to meddle here.

7. Yet what the Queen did upon this meſſage, ſeems



# Chap. IX. of the Church of England. 179

to have given no very ill satisfaction; for <sup>i</sup> St *Edw. Carne*, <sup>i Hist. Council.</sup>  
then in *Rome*, advised the Pope the same year to invite <sup>Trident. Anno</sup>  
her to the Councell of *Trent*, promising him half the <sup>1560. p. 446.</sup>  
Kingdom with her own liking would receive his mes-  
senger; which yet was found otherwise: the reasons  
why, are some toucht by Historians, and may more at  
large be seen in *St Nicholas Throgmortons* negotiations,  
then her Ambassador in *France*. Certainly <sup>k</sup> the *French* <sup>k 1b. p. 522.</sup>  
were not altogether out of an opinion (or at least would <sup>p. 523.</sup>  
have it thought so) of her sending to the Synod; which  
the Pope, however he invited her, was not a little trou-  
bled at. But the great combination of the Popish par-  
ty, supported by *France* against *England*, made her see  
she could expect no good where they were predomi-  
nant: upon which she caused the divines of her King-  
dom in councell to consider of a just and lawfull refor-  
mation; who meeting 1562, reviving the Acts of a  
Synod held at *London* ten years before under *Ed.* the 6<sup>th</sup>,  
and explaining some few expressions, and omitting some  
points rather of dispute then faith, did conclude on 39  
articles so just, so moderate, so fully agreeing with the  
doctrine of the primitive fathers, and with the ancient  
tenets and practise of this very Church in the times of the  
*Britons* and *Saxons*, as if any shall say no Clergy in any  
age or place have held out a more exact rule, he  
may be easlyer contradicted, then justly blamed, or con-  
futed.

8. For having laid their ground, that <sup>l</sup> *holy Scripture* <sup>1 Art. 6.</sup>  
containeth all things necessary to salvation, so that  
whatsoever is not read therein, nor may be proved  
thereby, is not to be required of any man, that it  
should be believed as an article of Faith, &c. they  
do upon that Basis establish the doctrine of the three  
Creeds, the Nicen, Athanasian, and Apostles,  
heretofore ever held to contain *Ecclesiarum omni-*  
*um fidem*, and that the <sup>m</sup> *Romish doctrine of Purga-* <sup>m Art. 22.</sup>

of Purgatory, Pardons, worshipping & adoration of Images, relicks, Invocation of Saints, &c. is not warranted by Scripture, that is, are no articles of faith: and then proceed to settle such other things as are *juris positivi*, with so just a moderation, as is hardly elsewhe to be found; changing nothing for the generall, but where the practice of their own ancestors did justify their doings, without at all extending themselves to any thing where they had not antiquity their warrant.

9. Following which, they restored the cup, having the Councell of Clermont under Urban the 2, that *Corpus Dominicum & sanguis singulatim accipiantur*, the command of *o Paschalis* the 2. and the practice of the English Church, where sickly people, women as well as men, were to be provided of a pipe to receive it by; as was expressly enjoined the order of the *Gilbertines* about 1200. The thing being already printed, I need here repeat no more, but onely add, that this permission of theirs was no other but a restoring to *minores ecclesias*, that is Parochial or Country Churches, that liberty *Peckham* had deprived them of not 300 yeares before. For I do not find any prohibition, but the Lay might ever have been partakers of it with us *in majoribus*, that is Cathedral Churches; for *Lyndwood* in his gloss upon the English constitutions about 1430, propounds this question, *Sed numquid in istis ecclesiis Cathedralibus, & aliis majoribus, liceat non celebrantibus dum communicant recipere sanguinem Christi in specie vini? videtur ex hac litera, quod sic, argumento sumpto à contrario sensu, quod est in jure fortissimum, ut &c.* — & hoc bene putarem verum; saltem quoad ministrantes sacerdoti ministranti &c.

10. For the permitting of Matrimony to the Clergy, it is undoubted all here had the liberty of matrying, before *Lanfrank* in a Councell at Worcester 1076. did rather advise then command the contrary; which *Huntington* (who was himself the son of one in holy orders) says

n Apud Ord-  
dericum Vi-  
talem Anno  
1095. p. 720.

a.

o Apud Baron.  
to. 12. Anno  
1118. n. 2. in  
nonnullis in  
Appendice.

p Statuta Gil-  
bertinorum  
Ms. de canonici-  
is cap. 33. vi-  
de adversaria  
Doctoris Wat-  
sii ad Mat. Pa-  
ris p. 9. lin. 6.

q De Summa  
Trinitate &  
fide Catholi-  
ca, cap. Al-  
tissimus, ver-  
bo minoribus  
ecclesiis.

r Antiquit.  
Britan. p. 98,  
10. in Lan-  
franci vita.  
f Hunt. fol.  
217, b. 26.  
o a. 20.

# Chap. IX. of the Church of England 181

fayes was first prohibited by *Anselm* 1102. But <sup>a</sup> *multi presbyterorum statuta Concilii Londoniensis* — <sup>b</sup> *postponentes, suas sēmas retinebant, aut certe duxerant quas prius non habebant &c.* so that his constitutions came quickly neglected, Priests both marrying, and retaining their wives. At which though the King were <sup>c</sup> somewhat displeased, yet soon after <sup>d</sup> he took a piece of money of them for it, and they kept them by his leave. Divers constitutions were after made by severall Archbishops and Legats in the point, as by *Steph. Langton* at *Oxford* 1222, registred by <sup>e</sup> *Lyndwood*: <sup>f</sup> *∴* yet it is manifest they did secretly contract marriage, which some are of opinion they continued till towards the end of *Edward* the 3<sup>d</sup> reign. This I am the rather induced to believe out of that in <sup>g</sup> *Knighton*, that <sup>h</sup> *∴ John de Alithwerl* Clerk was slain by his wife and servant in his own house at *Leicester* 1344. for which fact she was burnt, and he hanged. Now I conceive, had she been onely his concubine, not his servant, she had not suffer'd by the judgement of burning for the murther, but hanging onely: neither can I interpret the word *Clericus* for other then one in *Holy Orders*, prohibited marriage by the *Canons of Rome*; though I know, *large loquendo*, as our <sup>i</sup> *Lyndwood* hath it, *omnes in Ecclesia ad divinum officium ordinati* are sometimes so styled, <sup>j</sup> of which such as were *infra subdiaconatum* might retain their wives, but those were *in subdiaconatu* or above were to quit them. But the *Canons* yet remaining made at sundry times, from *Lanfrank* even to *Chichly*, by the space of more then 300 yeares, enough assure us this point of *Celibat* was not easily imposed on the *English* Clergy, and assures us such as laid it might take it off again.

11. For Images, if the *Saxons* had any use at all of them in their Churches (for ornament, for history, <sup>k</sup> to which end *S. Gregory* holds they might be permitted, for memorials of holy men departed, (as we have of late

<sup>l</sup> *Eadmer*. p. 94, 48.

<sup>m</sup> *Eadmer*. p. 105, 27.  
<sup>n</sup> *Hunt. fol.* 220, a. 26.  
*Saxon. Chron.*  
*Petroburg. Ms.*

<sup>o</sup> *De cohabitatione cleric. & mulierum, & de clericis conjugatis.*

<sup>p</sup> *∴ Constit. Othonii cap. Innotuit.*

<sup>q</sup> *Col. 23 84.*  
<sup>r</sup> *Clericus apud Leicesteriam.*

<sup>s</sup> *Quare ubi ibi this were not the Priest of the town that was thus inhabiting there.*

<sup>t</sup> *De locato & conducto, cap. Venden-tes, verbo Si quis Clericus.*

<sup>u</sup> *Lynd. de clericis conjugatis, cap. 1.*  
<sup>v</sup> *Vide Monasticum Anglicanum* p. 899.  
<sup>w</sup> *∴* p. 900.

<sup>x</sup> *Greg. lib. 7. epist. 109. ∴ lib. 9. epist. 20.*

d Reply to  
Harding. Art.  
14. in princi-  
pie.

seen) & they being only thus applyed, I conceive, & with the Bishop of *Salisbury*, the weight of the question not so great,) yet it was a thing voluntary, no command of the Churches injoyning it, till after the Conquest. And here the question is not, whether *Augustine* might or did bring the picture of our Saviours Crosse in his banner, as most Protestants yet retain it; but whether he placed them in the Church, with an intent to have worship of any kind attributed unto them: for which purpose, I confesse, I have not heard of them till many yeares after; for the vision of *Egwinus*, and the Councell of *London* setting up of Images being made good (so far as I know) by no author of any antiquity, I cannot but take it with *Baronius* for a meer figment.

e To. 1. anno  
714. n. 2.  
f Simeon  
Dunelm. col.  
111. 50.  
Hoveden  
fol. 232. b. 3.  
Mat. West.  
Anno 793. p.  
283.  
g Anno 788.  
At Baron.  
anno 787. tom.  
9. n. 10. 38.  
h Concil. gen.  
Rom. Synod.  
7. p. 661. lin.  
ult.

m Ingulph.  
fol. 514. a.  
17.  
n Lyndwood  
de Hæc. cap.  
Nullus quo-  
que.  
n Seculo 8.  
cap. 5. p. 126. 9.  
o In bibliotheca  
Cotton.

12. It is certain, f 792 the Bishops of *England* declared their dissent from the second Councell of *Nice* in point of Images, held onely 4 yeares before, according to *Diceto*: and where some interpret that they did onely condemn the worship the *Greeks* call *λατρία*, by using the *Latin* word *adorare*; it cannot be denied but they did reject that *ἡ τιμωμένη προσώπων* the Orientall Bishops had established, in which sense they used the word *adorare*, which is often, as well in holy writ as by humane authors, taken for that reverence is given a creature, as for the religious duty we only owe to the Divine Majesty: see *Gen.* xxiii. 7, 12. *Ingulphus*, a writer not long after, *Constantinopolim pervenimus, ubi Alexim imperatorem adorantes* &c. So *Arundell* in his constitutions, \* *adorationem crucis gloriosa*.

13. To this narrative n *Harpsfield* gives the title of *com-mentitia & insulsa fabula*, and thinks it not writ by *Sim. Dunelmensis* or *Mat. Westminster* (he might have added *Hoveden*, the Ms. \* history of *Rocheſter*,) but that it was anciently inserted into them. For answer to which, he would be desired to produce any one old copy without it, not mangled, so as it doth *prodere furtum* by wanting it:

it: I have seen divers of *Hoveden* Ms. some of *Math. West.* but never did one wherein it was not found, not in the margin but in the text it self, and so it is in *Dunelmensis* his Ms. at *Bennet Colledge in Cambridge.* For my part, I do not know how any thing we mislike in History, may not after this manner be rejected, if a relation gathered from monuments of an elder date, which are perisht, yet cited by one who lived not so long after the time he speaks of, but they might well come to his hands, whom we find very sincere in such citations as yet remain out of more old authors then himself, ever esteemed of good credit in the Church of God, and in his narration followed *ad verbum* by those who writing of the same matter succeeded him, I confesse, I say, if this may be cast away, as a lying & foolish fable, I know not what shall gain credit. But what will men not lay hold on in a desperat shipwrack? I remember *p Baronius* prest with the testimony of *Luisprandus* in the deposition of *John* the 12. by imperiall auctority, makes no question of denying the five last chapters of his 6. book to have been written by him, though never doubted for more then 600 years since he lived.

p To. 10. anno 963. 2, 3. Anno 968, 10.

14. Another Doctor, I confesse, seems to give a more difficult objection; that *Aluinus*, who is said to have writ against the second *Nicen* Councell in the point of Images, doth in his book *de divinis officiis* say, *prosternimur corpore ante crucem, mente ante Deum; veneramus crucem per quam redempti sumus* &c. and this from an author had written against Images, he would have imply a veneration of them (even in his time who opposed them) by the *English Church.* But what hath the reverence of the Crosse to do with the worship of Images? It is not to be denied but Christians, in their talk and writings, did extoll and magnifie the Crosse, forced thereunto by the Gentiles, who spake ignominiously of him that dyed upon it; yet I believe it will be difficult to shew any Law

Richard Smith Arch-episc. Chalcedon. Flores hist. Anglic. lib. 2. cap. 7. p. 134. De Divinis officiis, die Parasceve.

or Canon before the Conquest, injoyning the use, much lesse that attributed any religious worship unto Images.

ſ. Concil.

Spelm. cap. 2.

P. 328.

15. It is true, the ſ. Councell of *Celicuith* 816. did charge *unicuique Episcopo, ut habeat depictam in pariete oratorii, aut in tabula, vel etiam in altaribus, quibus sanctis sint utraque dedicata, &c.* which was clearly for memoriall and ornament; as it hath been very common, in some Churches, to have on the wall the Image of *Queen Elizabeth*, and such as have built an Isle or window, to have their statue or picture set up in it, which in some parts perhaps remain to this present; yet no man ever held any religious duty fit to be given them, nor any man compell'd to set them up. Now that there was no precept of the Church commanding their use, I speak from the rules of *Sempringham* about 1148. that doubtlesse did not vary from the generall practise of Christians here, yet hath this expresse statute; *Sculptura vel pictura superflua in Ecclesiis nostris seu in officinis aliquibus Monasterii ne fiant interdiciamus, quia dum talibus intenditur, utilitas bona meditationis vel disciplina religiosa gravitatis saepe negligitur: cruces tamen pietas quae sunt lignae habemus.* So that it seems to me they did account all pictures so superfluous as not to have them, but onely painted crosses: & this was one of the first foundation. And in another place, which I take to be somewhat after, the buying of them and silk, as things indifferent, are alike interdicted; yet a direction how to bestow any thing of that nature should be left them: but see the words; *Nihil de serico emitur à nostris vel de nostro ad nostrorum opus, vel ad aliquid religioni contrarium, & seculi vanitatibus amminiculum, nec etiam ad quodlibet sacerdotale indumentum, nisi constet esse necessarium: Si vero datur, secundum arbitrium Prioris omnium communi utilitati & usui mancipetur. hoc idem de Yconiis vel aliis sculptilibus dicimus, quae ad beatam Mariam Virginis vel aliorum sanctorum sunt fabricata memoriam;*

quae

† Institutiones Mss. beati Gilbertii & successorum ejus per capitula generalia instituta; de exordio, ordinatione, institutione ordinis Canonico-rum, Sanctionum, fratrum & sororum laicorum ordinis de *Sempringham*. de canonicis cap. 15. § *Sculpturae*.  
u De fratribus cap. 13.



## Chap. IX. of the Church of England. 185

*quaetamen gratis* \* *grata*, prout de serico prædiximus, ad fororum altare, vel hospitium, vel alio apto loco honeste ponenda decernimus. So that it is apparent then their use was esteemed no other then that of silk; and these two articles seem to have been resolved on nigh the first foundation (being in an hand differing from some other I shall mention) by the Founder himself.

\* Sic Mss. sed lege gratis data, as it is in other places (as you will see hereafter) repeated.

16. In the year 1200 the house of *Sixle* or *Sixhill* in *Lincolnshire* was visited by the Abbat of \* *Waredune*, as Commissioner of \* *Otho* the Popes Legat; where about 20 articles were concluded for the government of the Order: the fifth of which, though it gave some more liberty then the former, yet was not without restraint: but take it from an hand of those times. *Anno gratie MCC in visitatione facta de Sixl' per Abbatem de Wardun auctoritate Domini Otonis Legati, statuta sunt hæc firmiter observanda. Inprimis, &c. cap. 5. Item inhibetur ne picturarum varietas aut superfluitas sculpturarum de cætero fieri permittatur, nec liceat alicubi yconias haberi, nec imagines, præter ymaginem Salvatoris, & y. beata Mariæ, & Sancti Johannis Evangelistæ.* Hitherto questionlesse, the Church of *England* following the doctrine of \* *St Gregory*, had been taught by testimonies of holy writ, that *omne manufactum adorare non liceat*; and though they might be lawfully made, yet by all means to avoid the worship of them: but see the progress.

\* Wardon or Wardun was a monastery of the Cistercian Order in Bedfordshire.

x Quere whether this were that Otho was after Cardinal, viz. in September, 1227.

y Lib 9. Epist. 9. Indict. 4.

17. Sixty eight years after this, *Othobon*, being the Popes Legat in *England*, did in his own person visit the chief house of this Order, and committed the others to *Rodolphus de Huntedune*, the said Cardinals Chaplain, and penitentiary; who associating to himself one *Richard* \* *generall inquisitor* of the Order of *Semplingham*, did in the year 1268. conclude upon 74 or 75. heads or chapters for the government of them; the 54 of which, under the title *de ymaginibus habendis*, is this:

\* Generali ejusdem ordinis de Semplingham scrutatore.

*Item, cum, secundum Johannem Damascenum, ymagi-*

B b

nis

nis honor ad prototypum, id est, ad eum cujus est ymago pertineat, ad instantiam Monialium, & earum devotionem ferventius excitandam, conceduntur eis ymages crucifixi & beate Maria & sancti Johannis Evangeliste, & quod possint habere in quolibet altari dedicato ymaginem ipsius sancti in cujus honore altare dedicatum est. Si tamen gratis detur eisdem, sicut beatus \* G. de serico & de ymaginibus duxit statuendum, & celebretur ipso die festivitatis illius sancti, & die dedicationis ejusdem altaris, missa ad dicta altaria, etsi sint infra clausuram monialium. Thus they.

\* Gilbertus.

\* Concil. Nic.  
cen. 2.

18. By which it is manifest, this Kingdom had not then received \* the 7<sup>th</sup> Councell; for if they had, there can be no thought they would have built their Article upon *Damascens* opinion onely. But by all these we may see, Images were brought into this Church by degrees, by little and little: First they were to have none, onely wooden crosses were tolerated; then they might not buy any, but being given they might accept the image of our Lady and other Saints; then an inhibition of all Saints, except our Saviour, the Blessed Virgin, and St Iohn the Evangelist, to which was added the image of that Saint their Altars were dedicated unto, and these onely by concession, not bought, but given. So that it is plain, they were then taken for things onely indifferent, as silk, which they might use or be without, no processions, bowings, kissing, &c. of them prescribed; but how the practise was afterward, that chapter of *Arundell* registred by *Lyndwood* may tell you, which because it is long, I shall not farther repeat, it being printed, then to adde that it is in him, lib. 5. de *Magistris*, cap. *Nullus quoque*: and in another place he propounds this question, \* *Numquid ymago Christi sit adoranda cultu latræ?* and resolves, *si consideretur ut ymago, tunc quia idem motus est in ymaginem in quantum est ymago & ymaginatum, unus honor debetur ymagini & ymaginato; & ideo cum Christus la-*

\* *Lyndwood*  
de *Ecclesiis*  
edificandis cap.  
ut parochia-  
ni, verbo *Im-*  
*ginis*.

*tria*

*tria adoretur, ejus imago debet similiter latría adorari. Nec obstat Exod. xxvi. ubi dicitur, non facies tibi ymaginem nec sculptam similitudinem; quia illud pro eo tempore erat prohibitum quo Deus humanam naturam non assumpsit, &c.*

19. The Synod at *Westminster* finding things in this posture, and their retention in many parts to have been joyned with a great abuse, if not impiety, took a middle course; first to condemn all manner of adoration or worship of them, (and therefore every *Sculptile* had been removed out of Churches) but whereas some use might be made of them for remembrance of histories past, to retain in sundry parts such windows and pictures, as might without offence instruct the ignorant in severall passages not unworthily preserved: which if any man have since been offended at, it must be on other grounds then I understand.

20. As they proceeded with this circumspection, not to depart from the primitive Church in matters *juris positivi*, so did they take no less care in points of opinion; for having declared which were the books of holy Scripture, they did not absolutely reject the use of the other, though they had been <sup>a</sup> taught by the doctrine <sup>b</sup> of *St Hierom* and <sup>c</sup> *St Gregory*, not to repute them in *Canone*, but to admit them *quia fidem & religionem adificant*, or, as they <sup>d</sup> say, *for example of life, and instruction of manners*.

21. For praying to Saints, however the Saxons might honor holy men departed, *eo cultu dilectionis & societatis quo & in hac vita coluntur homines*, as <sup>e</sup> *S. Augustine* speaks, (which what it is he explains elswhere) yet I am hardly perswaded to think they did admit any publick praying to them in the Church; for I have seen and perused three ancient *Saxon* Psalters full of prayers, but no one petition to any Saint whatsoever. *f Eadmerus* sayes the report went of *VV*<sup>m</sup> the second, that *crederet*, & *publica voce assereret, nullum sanctorum cuiquam apud De-*

a Iohan. Sa-  
risb. Epist.  
172. p. 281.  
285. Walden-  
sis tom. 1. lib.  
2. Art. 2. cap.  
23. n. 2. fol.  
203. a. col. 2.  
edit. Vener.  
1571.  
b Tractat. in  
proverb. Salo-  
monis 10. 3.  
fol. 9. c.  
c S. Gregor.  
Moral. lib.  
19. cap. 17.  
d Art. 6.  
e Contra Fau-  
stus Ma-  
nichæum lib.  
20. cap. 21.  
10. 6.  
f Lib. 1. p. 43.  
1.

2 In Canon.  
Missale lect. 3.  
D.

3. August. de  
vera religione  
cap. 55. 10. 1.

b Errores  
Græcorum  
in fasciculo  
Zizaniarum  
Mss. per  
Thomam Wal-  
dens. fol. 156.  
b. col. 1. in  
bibliotheca  
Archiepisc.  
Armach.  
i Mat. Paris  
hist. minor. Mss.  
Ann. 1237.  
1238.  
Vide Hist. ma-  
jor. Anno  
1237. p. 457.  
16. p. 465. 22.  
k Mat. Paris.  
Hist. major. p.  
892. 28.  
l. Art. 22.

*umposse prodesse; & ideo nec se velle, nec aliquem sapien-  
tem debere beatum Petrum interpellare:* yet he doth not  
censure this as hereticall, but onely *mentis elatio.* 8 Ga-  
briel Biel long after confesseth in his time, some Christi-  
ans as well as Hereticks were deceived, in thinking  
Saints departed *nobis auxiliari nec meritis possunt nec pre-  
cibus.* The Church of England therefore, following .<sup>s.</sup> S.  
Augustine, condemns all religious invocation of them,  
as those were *non adorandi propter religionem*; yet in re-  
spect they were *honorandi propter imitationem*, to retain  
their commemoration, by appointing a set service for  
the dayes on which it celebrated their memorialls; there-  
by to provoke us to imitation of their piety, and to thank  
God that left such lights, who by their doctrine instru-  
cted us, and whose lives were examples for us to follow :  
and in respect there are sundry Saints for whom there is  
no proper office, to retain one day to praise God for the  
generality of all, and beg of him that we may follow  
their pattern in all vertuous and godly living. This if any  
mislike, I intreat him to pardon me if I joyn not with  
him; and if he will add more, to give me leave to think  
he attributes to them (by what name so ever he style it )  
that is onely due to the Divine Majesty.

22. For Purgatory, however it might be held a pri-  
vate opinion, yet certainly as an Article of Faith it could  
not be; for the *Greeks*, who have ever<sup>b</sup> constantly de-  
nyed it, were in communion with the Church of Rome  
till<sup>i</sup> 1238. after which onely they began to be accounted  
schismaticks, not so much for their opinions, as deny-  
ing subjection to the See of Rome; for some of them com-  
ing to Rome 1254<sup>k</sup> *de articulis fidei & sacramentis fidei  
satis tolerabiliter responderunt:* so that questionlesse the  
Historian could not then hold Purgatory an Article of  
Faith, when those who did affirm *Nullum Purgatorium  
est*, did give a tolerable account of their Faith. Our Di-  
vines therefore charge these opinions<sup>l</sup> onely as *fond in-  
ventions*,

# Chap. IX. of the Church of England. 189

ventions, grounded on no warrant of Scripture, but rather repugnant to the word of God; that is, as I have said before, they deny them to be Articles of faith.

23. In like manner, having first declared the bread we break in the holy Communion to be a partaking of the body of Christ, and the cup of blessing of his blood, they censure Transubstantiation, or the change of the substance of bread and wine, as what is not proved by holy writ, and therefore no Article of faith &c. And indeed how could they say less of so doubtful a tenet, so newly crept in, that had burnt so many, was so contrary to the ancient doctrine even of the English Church, as the Saxon Homily yet remaining in an old MS, with this title, *A book of Catholick sermons to be repeated each year*, doth undoubtedly assure us? It is true, some of late have strove to give an answer to it; as he that styled himself Bishop of Chalcedon will have the author perhaps to have been an heretic; but that the time and title confutes, all writers agreeing England to have been free from any heresy after S. Gregory, till about the year 1166. If that therefore will not do, he hath another, viz. the Sermon to make more for Transubstantiation than what the Protestants cite doth against it; yet is silent both where the words are in it, and who are the citers of them. For my part, to speak once for all, take the whole Homily as it lies, not one piece torn from the other, and if the doctrine of it be such as he can digest, I know not why we differ. As for those two miracles, which some dislike so far as to think them inserted into the work, I confess them not to displease me at all; for if they were inserted to prove the verity of Christs body in the Sacrament, against those who held it bare bread, yet it must be after such a ghostly and spirituall manner as is there represented, without any other change in the substance of the bread and wine then is in the water of Baptism, p. 33. not bodily but ghostly pag. 38. 36. a remembrance

m Art. 28.  
n Vide Bellarmin, de Euchar. lib. 3. cap. 23. §. secundo dicit.  
o Liber Catholicorum sermonum per annum recitandus. p. 355.  
p Flor. Hist. Eccles. &c. lib. 1. cap. 24. p. 91.  
q Ab hac Scælis pestibus Hæreticis immunis semper existit Anglia, ubi hanc insulam expulsi Britonibus natio possedit. Anglorum, ut non jam Britannia sed Anglia diceretur, nullius unquam ex ea pestis hæreticæ virus ebullivit: sed nec in eum aliunde usq; ad tempora Regis Henrici secundi introiit.  
Newbrigen. lib. 2. cap. 13. Vide Pitæum de script. Anno 1159.  
p. 220.  
r Editionis Iohannis Dæi in off. 4vo.

of *Christs* body offered for us on the Cross. p. 46.

f p. 90. vide  
Malms. de  
pont. lib. 1. in  
vita Odonis fol.  
114, b. 36.

t De unitate  
Eccles. cap. 16.  
tom. 7.

24. And this may serve for answer to that his *Achilles*, by which his doctrine of Transubstantiation *manifestus patebit*, of Odo Archbishop of Canterbury about 940. converting miraculously the Eucharist *in formam carnis, ad convincendum quosdam, qui suo tempore ceperunt de ea dubitare*: to which I shall first remember, that when *St Augustine* was prest with certain miracles of *Donatus* and *Pontius*, which the Donatists urged to prove the truth of their doctrine, he gives this answer, *Removeantur ista vel signa mendacium hominum, vel portenta fallacium spirituum; aut enim non sunt vera quae dicuntur, aut si haereticorum aliqua mira facta sunt, magis cavere debemus*; and after a learned discourse, he tells of some in the Catholick Church had happened in the time of *St Ambrose* at *Milan*, upon which he gives this grave censure, *Quaecunque talia in catholica fiunt, ideo sunt approbanda, quia in catholica fiunt; non ideo ipsa manifestatur catholica, quia haec in ea fiunt. Ipse Dominus Iesus cum resurrexisset à mortuis, & discipulorum oculis videndum manibusque tangendum corpus suum offerret, ne quid tamen fallacia se pati arbitrarentur, magis eos testimonis Legis & Prophetarum & Psalmorum confirmandos esse judicavit, ostendens ea de se impleta, quae fuerant tanto ante praedicta, &c.* and a little after, *Hoc in Lege & Prophetis & Psalmis testatus est, hoc ejus ore commendatum tenemus, Haec sunt causae nostra documenta, haec fundamenta, haec firmamenta.*

u Vide Chamier. de Sacramentis lib. 10. cap. 1. 2.

25. To apply this to our case; the Church Catholick hath ever held a true fruition of the true Body of *Christ* in the Eucharist, and not of a signe, figure, or remembrance onely, but as the *French* confession, *que par la vertue secrete & incomprehensible de son Esprit, il nous nourrit & vivifie de la substance de son corps & de son sang, &c.* and therefore we can agree to these verses:

*Christ*



## Chap. IX. of the Church of England. 191

*Christ was the Word that spake it,  
He took the Bread and brake it :  
And as that Word did make it,  
So I believe and take it.*

Here is then a Catholick Sermon, commanded to be read in the Church many years before the word *Transubstantiation* was heard, as the doctrine of it, teaching me this participation with *Christ*, however true, yet is not fleshly, but spirituall: if therefore this miracle were not to convince those held the communicating of *Christ* in the Sacrament, to have been no other then fantastickall, and the bread to have been, and conveyed no other to us then bare bread, must not I, according to St *Augustine*, avoid it as the fancies of lying men, or the operation of deceiving spirits? &c. And this as it may serve in generall for all miracles, so in particular for that of late divulged, of a poor mans leg cut off in *Spain* and buried, yet four years after restored: which if it be not some imposture, as the golden tooth in *Silesia*, or of *Arnald Tilly* (taken in *Francis* the 2<sup>d</sup>s time not onely by others, but by the very wife of *Martin Guerre*, for her husband, and which held the Parliament of *Tholons* so much perplexed to resolve) we must not (according to this holy mans doctrine) believe for that or any of the like nature, farther then is proved by the Law and the Prophets, &c. Yet there is one thing in my opinion very considerable; what the Apostles did, were such, and in those places, no man could deny them: but these the Church of *Rome* holds out for confirmation of their religion, are either in corners, as *Garnets Face* in the Eare, with so dark proofs, as when they are looked into, *res tota cum contemptu dimissa est*; or else done in *Italy*, or *Spain*, where the Inquisition will suffer none but themselves to examine the fact: whereas if they followed th' Apostles example, they should be in *England* or *Germany*, that the Protestants might say, *indeed a notable miracle hath been done*  
by

by our Lady, is manifest to all; and we cannot deny it.  
Acts iij. 16.

*in I.R. his spe-  
cacles to Sr  
Humfrey  
Lynde, p.  
135. §. 4.*

*y p. 143. cap.  
9. §. 10.*

*z N. 23.*

*.. Index cep-  
torum aucto-  
rum. Romæ.*

*a Tom. 2.  
p. 450.*

*b p. 462.*

26. \* Another will have that homily, at least what he takes on him to confute, to contain no other then Catholick doctrine; and then falls upon the Archbishop of *Armach*, whom he conceives to have ill translated it out of the Latin, in which language there is not now found any ancient copy of it; insisting, that though it were printed at *London* 1623. it was not to be heard of when he writ, which was about 1631. insinuating as if more might be said, if he could see the author himself. For the first of these, it must be said to contain Catholick Doctrine on the grounds before; but if it be that the Church of *Rome* admits for such, I am glad to understand that from him. For the Primat of *Ireland*'s translating the Latin to the disadvantage of the *Romish*, I shall give no answer, but that his *English* are indeed some parts of that sermon, but the *Latin* pieces of *Bertram* so agreeing with them, as they were undoubtedly taken out of him, (by which he gives a far elder testimony to that author then *Oecolampadius*) who was, no question a Catholick Doctor; but being so why is he prohibited by the Roman Index? why if at all permitted, must it be *exco- gitato commento*? For the other, that it could not be had in *London* only eight years after it was printed, I can say nothing, but some men will not hear that they mislike: for that Homily, of which (if he say any thing) he speaks, first set our by *John Day*, with the subscription of 15 Bishops attesting the truth of the Copy, after 1623 reprinted by *Henry Seal*, alwayes in the book of *Acts and monuments* &c. in the life of *Hen. the 8.* and of late by Mr. *Whelock* put into *Latin*, and taken without any intervening transcription from the originall *Saxon*. (that he might not vary in a title) was with his translation of it printed at *Cambridge* 1644. <sup>b</sup> amongst divers other excellent notes of that learned man upon *Beda*, that such as under-

understand not the language, may in that point see the doctrine of our forefathers.

27. A third<sup>c</sup> Doctor, who cannot deny but it makes directly against Transubstantiation, gives an answer I could not have expected, yet in my opinion more ingenious; *That it is unreasonable to produce the forcelesse authority of these Saxon Homilies, which have no warrant of truth from any other but from our selves; and the margin, These Homilies were never heard of, but now of late amongst Protestants, onely framed and printed by themselves, without the warrant of any one indifferent witnesse.* This is, I say, what I could not have looked for. Can any man imagine two Archbishops, thirteen Bishops, besides divers other personages of honour and credit, could have been induced to subscribe so palpable a lye? as it must be, if this and the other passages, by them there testified to be found in the ancient monuments of this Church, were lately framed. But the old books that yet<sup>d</sup> remain, writ above five hundred yeares since, do enough vindicate the Protestants, in that which I dare say no one of them who alledge it do in their hearts believe, not to have been extant in them, as the Archbishop first sent them to the Presb.

<sup>c</sup> Malon his  
Reply to the  
Archbishop  
of Armach, p.  
320.

<sup>d</sup> In bibliotheca publica  
Cant.

28. Of the little credit the Councell of Lateran in this point gained here, I have<sup>e</sup> touched before: neither did Peckham's constitution, *sub panis specie simul dari corpus* &c. speak home, nor was the thing ever absolutely determined with us till 1382: so that the opinion of Transubstantiation, that brought so many to the stake, had not with us 140 yeares prescription before Martin Luther began; for in that year Wickliff having propounded, *quod substantia panis materialis aut vini manet post consecrationem* &c. the Archbishop taking it into consideration, did not think fit to condemn the Tenet, without farther advice with the University of Oxford, <sup>h</sup> where *libratis singulis*, every saying weighed, (and in especial,

<sup>e</sup> Chap. 7. n. 37.

<sup>f</sup> In fasciculo  
xizaniarum  
Mss. per  
Thom. Wal-  
dens. & Hen.  
Knighton,  
qui tunc vixit  
scripsitque, col.  
2648, 8. &  
2654, 44.  
<sup>g</sup> Knight  
col. 2649, 31.  
<sup>h</sup> col. 2650,

i Col. 2634. as it seems, those <sup>i</sup> concerned the Eucharist) he did condemn some as hereticall, others as onely erroneous, and farther, *singulos defensores eorum imposterum sententia excommunicationis innodatos fore*, and gave command, <sup>k</sup> *ne quis de cætero cujuscunque status &c.* — *hæreses seu errores prædictos vel eorum aliquem teneat, doceat, prædicet seu defendat.* The <sup>l</sup>Chancellor likewise of the Academy repeating *VVickliff's* opinions touching the holy communion, shews they had been diligently discuss't by Doctors in Divinity, and professors in the Canon Law, *ac tandem finaliter est compertum atque judicio omnium declaratum, ipsas esse erroneas, fidei orthodoxæ contrarias, & determinationibus Ecclesiæ repugnantes*: and then after all this search, delivers the doctrine of Transubstantiation as the conclusion agreed to be held, *Quod per verba sacramentalia à sacerdote prolata, panis & vinum in altari in verum corpus Christi & sanguinem transubstantiantur, seu substantialiter convertuntur sic, quod post consecrationem non remanent in illo venerabili sacramento panis materialis & vinum secundum suas substantias, sed secundum species earundem.* And this I take to have been the first plenary determination of the Church of England in the case, which yet how well it will be liked by such as hold the manner of conversion to be by a <sup>m</sup> succession of Christs body to the substance of the bread, I leave others to dispute. But certainly the Archbishop not <sup>n</sup> adventuring to proceed in it alone, nor by his own councill, by <sup>o</sup> his extending what he did onely to the future, both for punishment and *Tenet*, and after <sup>p</sup> long enquiry concluding the truth of it, enough proves it not to have been in former times fully resolved on in this Church; so that we may say of our Auncestors, as <sup>q</sup> the Iesuites here about some 60 yeares since did of the Fathers, *rem Transubstantiationis ne attigerunt.* And it may not here unfitly have a place that <sup>r</sup> *Iohn*

Tislington

m Vide Bellar.  
de Eucharistia  
lib. 4. cap. 24.  
§. ult.  
n Noluit  
Arch. plenarie  
procedere.  
o Imposterum,  
de cætero tene-  
at.  
p Tandem fi-  
naliter.  
q A sparing  
discourse pag.  
13. writ by  
a secular  
Priest against  
i<sup>e</sup> Iesuites  
Anno 1601.  
r In Confess.  
contra Wick-  
liff. in biblio-  
theca Archie-  
pisc. Armach.  
Mss.

## Chap. IX. of the Church of England.

195

*Tislington* a Franciscan, whom *Pisens* (from *Baleus*, not *Leland*, as he would have us think) affirms to have been an assistant in this dispute at *Oxford* 1382, or as some 1381. cannot deny the truth of the assertion, *quod panis & vinum remanent post consecrationem in naturis suis, adhuc servatur Laicis, & antiquitus servabatur.* And here it is not unworthy the remembring, that by the law of the 6 Articles 31. *Hen. 8.* cap. 14. (containing in effect the body of Popery) no man was to dye as an Heretick but he who denyed this Tencer; all others onely as felons, or men endangering the peace of the Kingdome, by reaching contrary to what was publickly received. By which it likewise appears, in fixing th' imputation of Heresy, the *English* looked on their home Determinations, not those of any forreign Church.

29. But I do not take upon me to dispute matters controversall, which I leave as the proper subject to Divines; it shall suffice onely to remember, the Church of *England* having with this great deliberation reformed it self in a lawfull Synod, with a care as much as was possible of reducing all things to the pattern of the first and best times, was interpreted (by such as would have it so) to depart from the Church Catholick; though for the manner, they did nothing but warranted by the continuall practice of their predecessors, and in the things amended had antiquity to justify their actions: and therefore th' Archbishop of *Canterbury*, in a provinciall Synod begun in *S. Pauls* the 3 of *April* 1571, and all other Bishops of the same Province, gave especially in charge to all preachers, to <sup>1</sup> chiefly take heed, that they teach nothing in their preaching, which they would have the people religiously to observe and believe, but that which is agreeable to the doctrine of the old Testament and the new, and that which the Catholick Fathers and ancient Bishops have gathered out of that doctrine. So that

<sup>1</sup> The book of  
Canons of the  
same Synod  
printed by  
*John Day*  
1571.

nothing is farther off truth, then to say, such as reformed this Church made a New religion; they having retained onely that which is truly old and Catholick, as Articles of their faith.

30. Thus was Religion reformed, and thus by the Queen establisht in *England*, without either motion, or seeking any new way not practised by our Ancestors, but using the same courses had been formerly traced out unto them, for stopping profaneness and impiety, when ever they peeped in the Church. And certainly, to my understanding, there can be none that will with indifferency look upon those times, but he must (however he mislike the thing done) approve the manner of doing it. Yet the favorers of *Rome* ceased not to proclaim all had thus past to have been hereticall (without instancing any particular, as to say such a carriage was after the manner of Hereticks, ever condemned by the Catholick Church, and by orthodox writers in former times, or such a Tenet in your confession was held heresy from this place of Scripture anciently, by such holy Fathers met in generall Councell) and to raise stirs and commotions in the Commonwealth, <sup>f</sup> to excommunicate the Queen as *flagitiorum serva*, free her subjects of their allegiance, to give out we had <sup>a</sup> a *Parliament-religion, Parliament-Gospell, Parliament-Faith*, and this before ever the 39 Articles, one main pillar of the *English* reformation, were confirmed by Parliament.

<sup>f</sup> Bulla Pii  
5<sup>ti</sup> March  
28. 1569.  
<sup>a</sup> Harding his  
consultation of  
the Apol.  
part 6.

31. Upon the whole, it is so absolutely false that the Church of *England* made a departure from the Church, which is the ground and pillar of truth, as I am perswaded it is impossible to prove she did make the separation from the *Roman* it self; but that having declared in a lawfull Synod certain opinions, held by some in her communion, to be no articles of faith, and according to the precedent of former times, and the power God and nature had placed in her self, redressed particular abuses crept into



## Chap. IX. of the Church of England. 197

into her, the Pope and his adherents, without ever examining what was the right of the Kingdom in such like cases, that had from all antiquity done the same, would needs interpret this a departing from the Church, because he resolved to maintain as articles of faith, & thrust on others as such, some ambiguous disputable questions the *English* did not think fit to admit into that number. To make a departure from Christs Church is certainly a very hainous offence, she never commanding ought but what is conformable to his will, nor \* requiring her children to believe any thing as matter of faith, but what is immediately contained in the word of God, or by evident consequence drawn from it: and as she excludes no Christians from being her children, who by their own demerits deserve not to be out of the divine favour; so in opposing those who endeavour to procure some tennets to be admitted for hers, which cannot be deduced from that ground, we do not depart from her, but gainsay humane errors, and concepts, which they would infer to be her commands who acknowledges them not. But as *S<sup>r</sup> Augustine* in a dispute with a Donatist, *utrum schismatici nos simus an vos, non ego, nec tu, sed Christus interrogetur, ut judicet Ecclesiam suam*: so may I, whether we are the schismaticks or the Church of *Rome*, *Christ* himself be the Judge. But whether divided from the other, being matter of fact, let the histories of former times, the extraordinary proceedings of the See of *Rome* of late against the Queen and this Commonwealth be compared, and I am confident the judgment may be referr'd to any indifferent person (though of that belief) who made the separation, and whether this Kingdom on so high provocations, did any thing would not have been parallell'd by former times, had they met with the like attempts.

3 2. Neither can the Crown in this reformation be any way said to have enterprised off the papall primacy,

C c 3

(which

\* Bellarm. de  
justif. lib. 3.  
cap. 8. § pri-  
ma ratio. &  
ibid. lib. 1. cap.  
10. § prima  
ratio.

u Contra liti-  
ras Ietiliani  
lib. 2. cap. 8 5.  
tom. 7.

which (for ought I know) it might have acknowledged so far as is exprest or deduced from holy Scripture, or laid down in the ancient sacred Councells, or the constant writings of the orthodox primitive Fathers, and yet done what it did; ) but to have exercised that authority alwayes resided in it, for conserving the people under it in unity and peace, without being destroyed by the Canons and constitutions of others; not suffering a forraign power ruine them to whom it owed protection. In which it did not trench upon the rights of any, but conserved its own; imitating therein the Imperiall edicts of severall Princes, and of those were in possession of this very diadem, conformable to their Coronation oath.

33. And from hence may be answered that which *Rome* brings as her Achilles, touching the succession and visibility of the Protestants Church and doctrine in all ages since Christ: for if theirs have been, it is impossible to say the others have not; the former adding onely more articles for a Christian to believe, which the latter will not embrace as needfull: so that if theirs (as they so much glory) have had the continuance from the Apostles, these needs must, which onely denies some part of that they hold. <sup>a</sup> *Protestants* (says Stapleton) *have many things lesse then Papists, they have taken away many things which Papists had, they have added nothing.* And here to my understanding the *Romanists* require of us what lies on their part to prove; for we denying in the succession of Bishops from *Cranmer, Wareham*, even to *Augustine*, and so of the *Britons*, ever any one to have held the points we differ in to have been points of faith, in that degree of necessity they are now required, and for proof cite not onely the *Apostles, Nicen, Athanasian* Creeds, but even that of *Peckham*, which we find so to differ from the late one set out by *Pius 4<sup>th</sup>*, as we cannot but say it is unjust in them to presse us to a profession in religion farther

<sup>a</sup> Fortresse of  
faith, at the  
end of Bedas  
Hist. fol. 47. b.

## Chap. IX. *of the Church of England.* 199

farther then our ancestors were; they on the contrary affirming all those holy Bishops preceding, not onely believed them as these now do, but did require them of others with the like necessity they now are; ought certainly to prove what they thus boldly affirm, which when they have done, truly for my part I shall think fit to yield: but till they do it, let them cease from proclaiming us hereticks, who hold no other then the ancient faith at first deliver'd unto us.

But this as a point rather dogmaticall for Divines, then historicall, the subject I undertook, I shall not here farther wade into.

F I N I S.

# Errata.

# correct.

P. 1. lin. 1.	more than	read	almost
10	Christian		Christians
5 15	genenerale		generale
7 18	they addresse		they did addresse
9 1	know		knew
Cap. 3. 7.	Preceitor		precentor
47 1	prius de fidelitate &		prius Romano Pontifici de fidelitate &
52 4	find at all		find it at all
67 10	suffer for		suffere death for
79 13	Episcopus & clerus		Episcopi & clerus
81. in mar-	Cap. 23.		cap. 3.
gine ad lit. f.			
141 2	whethe		whither
151 3	Glasse		Glosse
157 4	Albigenses		Albigensis
31	qui el		que il.
39	Assent, de leur.		auferatur comma
171 2	of Pope		of the Pope

